

In the Supreme Court of Canada.

APPEAL FROM THE COURT OF APPEAL. FOR ONTARIO.

BETWEEN

THE QUEEN, ON THE INFORMATION OF THE ATTORNEY-GENERAL FOR
THE PROVINCE OF ONTARIO,

(Respondent), PLAINTIFF.

AND

THE ST. CATHARINES MILLING AND LUMBER COMPANY,

(Appellants), DEFENDANTS.

10

JOINT APPENDIX

OF TREATIES, REPORTS, OPINIONS, HISTORICAL ACCOUNTS, EXTRACTS FROM SESSIONAL PAPERS,
CHARTERS OF NORTH AMERICAN COLONIES, ETC., ETC., PRINTED PURSUANT TO THE ORDER
OF THE HONORABLE MR. JUSTICE FOURNIER, MADE IN CHAMBERS ON THE FIFTH DAY OF
OCTOBER, 1886, AND SET OUT ON PAGE 277.

This Appendix is printed for convenience of reference only, and neither the Appellants nor the Respondent are to
be precluded on the argument from denying or disputing the relevancy of any of the facts or conclusions
therein contained.

McCARTHY, OSLER, HOSKIN & CREELMAN,

Solicitors for Appellants.

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THE ATTORNEY-GENERAL FOR THE PROVINCE OF ONTARIO,

For Respondent.

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I.

Correspondence, Orders in Council, etc., of the Governments of
the Dominion and of Ontario.

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APPENDIX.

Sec. I.

Correspondence, Orders in Council, etc., of the Governments of the Dominion and Ontario.

CORRESPONDENCE, ORDERS IN COUNCIL, ETC., OF THE GOVERNMENTS OF THE
DOMINION AND OF ONTARIO.

*Report of a Committee of the Privy Council (Canada), approved by the Governor-General, 28th
November, 1871.**

On a memorandum dated 25th November, 1871, from the Hon. the Secretary of State, submit-
ting that applications have been made to him for mining licenses and patents for land in the
10 neighbourhood of Lake Shebandowan, and in places about the head of Lake Superior, and recom-
mending that, pending the locating of the boundary line between the North-West Territory and
the Province of Ontario, no action be taken upon these or any similar applications; and further
recommending that the Lieutenant-Governor of Ontario be informed of the course proposed to
be taken by your Excellency's Government, and that it be suggested that the Government of that
Province should, in like manner, refrain from granting patents or mining licenses in the region of
country about the head of Lake Superior and Lake Shebandowan until after the boundary line
shall have been so located; and further submitting that it is of much consequence that the ascer-
taining and fixing on the ground of the boundary line in question should be as far as possible
expedited:

20 The Committee concur in the above recommendations and submit the same for your Excel-
lency's approval.

Certified. Wm. H. LEE,
Clerk, P.C.

*Report of the Minister of Justice (Canada).**

DEPARTMENT OF JUSTICE.

OTTAWA, 1st May, 1872.

With reference to a despatch of the Lieutenant-Governor of Ontario, of the 19th April,
transmitting an Order in Council of that Province of the same date, on the subject of the northern
and western boundaries of the Province of Ontario, and in which the Government of that Pro-
30 vince transmits a description of what it holds those boundaries to be.

The undersigned has the honor to report that a considerable difference exists between the
Government of Canada and that of Ontario, in respect to the said northern and western bound-
aries of Ontario, and until such boundaries are properly ascertained and defined, no criminal
jurisdiction can be effectively established or exercised in the disputed territory.

Having reference to the prospect of a large influx of people into the North-West Territories,
it is very material that crime should not go unpunished or unprevented, and in this view the

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undersigned has the honor to suggest that the Government of Ontario be invited to concur in a statement of the case for immediate reference to the Judicial Committee of the Privy Council of England, with a view to the settlement, by a judgment or decision of that tribunal, of the western and northern boundaries of Ontario.

This is more necessary as no conventional arrangement between the two Governments, as to boundary, can confer criminal jurisdiction on the Courts of Ontario, unless the place where any crime may be committed is, by law, within the Province.

The undersigned has the honor, also, to call attention to the fact that the mineral wealth of the North-West country is likely to attract a large immigration into those parts, and, with a view to its development, as well as to prevent the confusion and strife that is certain to arise and continue among the miners and other settlers so long as the uncertainty as to boundary exists, the undersigned begs leave to recommend that the Government of Ontario be urged to arrange with that of the Dominion for some joint course of action as to the granting of land and of mining licenses, reservation of royalties, etc., and for this purpose he would suggest that the Government of Ontario be moved to appoint a Commissioner to meet the Hon. J. C. Aikins, and arrange some joint system; and that any such arrangement, when ratified by the two Governments, shall be held to bind both, and shall be subject to the decision of the Judicial Committee of the Privy Council upon the question of the boundary; and that after such decision, titles to lands or mining rights shall be confirmed by the Government, whether of Canada or of Ontario, as shall, under the decision of the Judicial Committee, be the proper party to legalize the same. 10

All which is respectfully submitted.

JOHN A. MACDONALD.

*Report of a Committee of the Privy Council, (Canada), approved by the Governor-General, 16th May, 1872.**

The Committee of Council have had under consideration the annexed Memorandum, dated May 1st, 1872, from the Honourable the Minister of Justice, having reference to the settlement of the question of the northern and western boundaries of the Province of Ontario, and they respectfully report their concurrence in the recommendations submitted in the said Memorandum, and advise that the same be approved and adopted.

Certified.

WM. H. LEE,
Clerk, P.C.

30

The Secretary of State, (Canada), to the Lieutenant-Governor of Ontario.†

OTTAWA, 16th May, 1872.

SIR,—Referring to your despatch of the 19th ultimo, covering an Order in Council of the Government of Ontario, of the same date, on the subject of the northern and western boundaries of that Province, I have the honour to enclose, for the information of your Government, a copy of an Order of the Governor-General in Council, dated to-day, together with a copy of the memorandum of the Honourable the Minister of Justice mentioned therein.

2. I am, at the same time, for reasons set forth in the memorandum, to invite the Government of Ontario to concur with the Government of Canada in a statement of the case now in dispute between the said Governments, respecting such boundaries, for immediate reference to the Judicial Committee of the Privy Council, with the view to the settlement, by a judgment or decision of that tribunal, of the western and northern boundaries of Ontario. 40

3. I am also to urge upon the Government of Ontario the necessity, in view of the facts stated in the last paragraph of the accompanying memorandum, of arranging with the Government of the Dominion for some joint course of action as to the granting of land and of mining licenses, reservation of royalties, etc., in the portion of territory in controversy, and for this purpose I have to request you to move your Government to appoint a Commissioner to meet the Honourable J. C. Aikins to arrange such joint system, on the understanding that any such arrangement when ratified by the two Governments shall be held to bind both, and shall be subject to the decision of the Judicial Committee of the Privy Council upon the question of the boundaries, and that after such decision titles to lands or mining rights shall be confirmed by the Government, whether of
 10 Canada or Ontario, as shall, under the decision of the Privy Council, be the proper party to legalize the same.

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I have the honour to be, Sir,

Your Most obedient servant,

JOSEPH HOWE,

Secretary of State for the Provinces.

The Honourable Wm. P. Howland, C.B.,
Lieutenant-Governor, Toronto.

*Report of a Committee of the Privy Council (Canada), approved by the Governor-General, 7th November, 1872.**

20 The Committee of Council have had under consideration the despatch from the Lieutenant-Governor of Ontario, of the 31st May last, transmitting a further Order in Council of that Province on the subject of its northern and western boundaries.

The Committee have the honour to report that the importance of obtaining an authoritative decision as to the limits, to the north and to the west, of the Province of Ontario, has already been affirmed by Minute in Council.

That the establishment of criminal and civil jurisdiction, and the necessity of meeting the demands of settlers and miners for the acquisition of titles to lands, combine to render such a decision indispensable.

In reference to the northern boundary the Government of Ontario contend that it lies to the
 30 north of the watershed which divides the waters running to the south from those which run towards Hudson's Bay, and offer, "Should this view be acceded to by the Government of the Dominion, to consider any proposal which may be made to them by that Government for the establishment of a conventional limit to the north of that watershed"—and as regards the western boundary line, they state that it may be defined by a line drawn north from a point west of the Lake of the Woods and on the 49th parallel of north latitude, where that parallel would be intersected by a line drawn north from the source of the Mississippi River, and from thence to the point of intersection with the southern boundary of the Hudson's Bay territory, but reserve, in the event of such a line not being agreed to by the Canadian Government, the right to contend that the boundary of Ontario is still farther to the west.

40 The northern boundary of Ontario, the Government of the Dominion believe to be the line of the watershed separating the waters which run towards Lake Superior from those which run towards Hudson's Bay; and the western boundary, a line drawn in accordance with the provisions of 14 George III., chapter 83, from the conflux of the Mississippi and Ohio rivers northward (*i.e.*, by the shortest northward course) to the southern boundary of the Hudson Bay Company's territories.

* Sess. Papers, Ont., 1873, No. 44, p. 23.

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With the divergent views thus held by the respective Governments, and considering the limits within which the Government of Ontario propose to circumscribe the possible conventional boundaries, the difficulties which would attend an attempt to arrive at a settlement of the present differences between the two Governments in that mode are manifest, and in the opinion of the Committee too great to render such an attempt expedient.

To place the territory in dispute, pending the settlement of the question, within the limits of Ontario for criminal purposes, as suggested in the Order in Council of that Province of the 31st of May, whilst not at all providing for the sale or management of lands or granting titles thereto, or for civil jurisdiction, would, there is good reason to apprehend, be beyond the powers conferred by the British North America Act, 1867, and would be objectionable, not only as tending to render one party to the dispute less anxious possibly for its settlement, but, also, as calculated to exercise a prejudicial influence on the ultimate assertion of the rights of the Dominion. 10

The Government of Ontario without, for the time, definitely dealing with the proposal of the Government of Canada for a reference to the Judicial Committee of the Privy Council, observe that "the solution of the boundary question depends upon numerous facts, the evidence of many of which is procurable only in America, and the collection of which would involve much time, and suggest that the more satisfactory way of settling the question, should the Government of Canada still decline to negotiate for a conventional boundary, would be by a reference to a Commission sitting on this side of the Atlantic."

The Committee are of opinion that the evidence upon which the decision of the boundaries in question would depend, is chiefly, if not altogether, of a documentary character, and would be found rather in the Imperial Archives than in America, and that any which exists here might readily be supplied, whilst an authoritative decision by the Judicial Committee of the Privy Council would be final, and command that general assent which is so important in endeavoring to adjust questions of an inter-provincial character. 20

There are objections also to this proposal as regards the mode of conferring legal powers upon such a Commission, which it would be found very difficult, if not impossible to deal with, and the Committee doubt whether any other tribunal than that of the Queen in Council would be satisfactory to the other Provinces of the Dominion in the decision of questions in which they have a large interest, the importance of which is, by current events, being constantly and rapidly augmented; and they respectfully recommend that the proposition for a reference to Her Majesty in Council be renewed to the Government of Ontario. 30

They recommend, therefore, that a copy of this Minute, if approved, be transmitted to the Lieutenant-Governor of Ontario by the Secretary of State for the Provinces.

Certified.

W. A. HIMSWORTH,
C. P. C.

*Extract from letter from S. T. Denison to the Governor General, enclosing memorial from Indians, dated 7th April, 1873.**

[After reference to the terms of the Lake Superior Treaty of 1850, the letter goes on]: 40

Indian affairs were at that time managed by the Imperial Government; and in reference to this treaty the report of the Special Commissioners appointed, in 1856, to investigate Indian affairs in Canada, contains the following:

"If we considered that it came properly within our province, we should not hesitate to express

* Sessional Papers, Canada, 1879, No. 127, p. 8.

our decided regret that a treaty shackled by such stipulations, whereby a vast extent of country has been wrung from the Indians for a comparatively nominal sum, should have received the sanction of the Government."

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Since the date at which the Special Commissioners commented so unfavorably on the treaty, calling the stipulated payments a comparatively nominal sum, the lands ceded have become sufficiently productive to warrant the increased payment of at least \$4; if not, of such further sum (over and above the \$4) as Her Majesty may be graciously pleased to order, as provided for in the above cited clause of the treaty. But a difficulty has arisen in the fact that while the Government of the Dominion has to deal with the Indians, the lands have passed to the Government
10 of Ontario, which collects the now steadily increasing revenues.

To go no further back than the past two years: the sales of timber berths and lands within the territory ceded have realized to the Government of Ontario a very considerable sum, probably a million dollars, or more. * * *

*Extract from Memorandum by William Spragge, D.S.I.A., dated April 13th, 1873.**

In discussing the subject of the Indian claim to increased annuities, it must be kept in view that the amounts received in payment for portions of the lands surrendered in September, 1850, were realized chiefly from mining locations up to the period of Confederation, and that an important part of the money paid in was absorbed in defraying the cost of surveys, and as the locations formed, for the most part, separate blocks of land, the expense of survey was greater proportionally
20 than under ordinary circumstances in Township surveys. But whatever amounts remained available were paid over and formed part of the general revenue of the late Province of Canada. In addition however to the purchase money of lands were the receipts from timber dues, ground rents, &c., derived from the lands ceded, and as such properly chargeable with the Indian claim, in so far as, at this day, it may be found practicable to exact from the two Provinces of Ontario and Quebec, their relative proportions of the profits realized up to the date of Confederation, from lands and timber on Lakes Huron and Superior.

It was contended up to a comparatively recent period that the profits realized from these sources were so immaterial as to be inadequate to supply any appreciable increase in the annuities payable under the Robinson Treaties. But whatever they may have been they should constitute
30 the first contribution towards a fund out of which augmented annuities would be paid. And to obtain the requisite information, application may be made to the Crown Lands Department, Toronto, or the Ontario Government.

It will be, however, to the Ontario Government, who since Confederation, have, from extensive sale of mineral lands on both Lakes [Huron and Superior], and from sales of timber, mainly on the Lake Huron lands, made, during the season of 1872, that recourse must be sought with a view to establish a fund from which to pay the augmented annuities, and which the accession of moneys realized from the lands surrendered, will admit of being now provided for.

The Indians having through those who profess to be their friends been informed of the profitable sales of timber and land, which have taken place, and which as respects Lake Superior (where
40 but a limited quantity of mercantile timber exists) have been no doubt considerably exaggerated, will manifest dissatisfaction, until the questions at issue are properly disposed of.

The first step will be to seek from the Ontario Government the requisite information, and when this has been elucidated and also information obtained in regard to the accounts transferred by the Crown Land Department in connection with sales of lands on Lakes Huron and Superior, to the Receiver General of the late Province of Canada, it is proposed that such capital sum as shall be found available shall be dealt with in the same manner as other capitalized annuities, in order that as nearly as circumstances will admit of the maximum amount per head named in the treaties may be paid respectively to the various bands of Lakes Huron and Superior.

* Sess. Papers, Can. 1879, No. 127, p. 11.

Report of Committee of Privy Council (Canada), approved by the Governor General, 9th July, 1873.

The Committee advise that the facts of the treaty and the claims now put forward by the Indians, and the grounds thereof, be made a subject of a communication to the Government of Ontario, and that that Government be moved to take such steps in the matter as under the circumstances may seem to them to be just on the part of the Province of Ontario.

CONDITIONS OF GRANT, BY THE DOMINION GOVERNMENT, OF TIMBER LIMITS IN THE TERRITORY IN QUESTION, SUBSEQUENT TO THE EXTINGUISHMENT OF THE INDIAN TITLE.

*Report of a Committee of the Privy Council (Canada), approved by the Governor-General, 14th April, 1874.**

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On the petition of W. J. Macaulay, Esquire, for a grant of a timber limit of 100 square miles in area on the east shore of the Lake of the Woods, were applied for by him on the 13th April, 1872, or in that vicinity, such limit to be selected and reported by him within six months so that he may be certain of securing timber for his mills in paying quantities.

The Honorable Mr. Scott, acting in the absence of the Honourable the Minister of the Interior, in a memorandum dated 13th January, 1874, states as follows :—

Mr. Macaulay applied for limits on the north-east shore of the Lake of the Woods on the 13th April, 1872, and was informed that in consequence of the Indian title not having been extinguished over that part of the country, his application could not then be entertained.

He applied subsequently for a limit on the Roseau river in the south-west part of the Province, 20 and one was granted to him on the 30th January last. It appeared however when the International Boundary came to be run, that most of the timber supposed to be on his limit was in the United States, and in May last he reported the fact, and asked to be allowed to substitute a limit on the Winnipeg River, requesting permission however to cut timber on the Roseau until he should be able to make that on the Winnipeg available, and his request was granted.

He now reports that he apprehends serious difficulties in working this latter limit at the present time, and expresses a desire to secure a further limit in the Lake of the Woods District.

The acting Minister further states that being cognizant of the enterprise exhibited, and the large capital invested by Mr. Macaulay as the pioneer of the Province of Manitoba in endeavouring to supply the great want of that Province, that is to say, lumber and building material, and in 30 view of all the facts, he recommends that he be granted the privilege of selecting additional limits in the district applied for, such tracts not to be less in extent, each, than twenty square miles, and not to exceed in all one hundred square miles, the bonus to be paid for the same to be twenty dollars per square mile, the same as charged him for the Winnipeg limit, provided always,—

(1) That such limit shall not form part of any reserve set apart under the late treaty for actual occupation by Indians, and

(2) That on the adjustment of the question of boundary between the Dominion and the Province of Ontario, should the limits so granted prove to be within the said Province, this Government shall not be held liable to the lessee in any way to secure his continuing in the enjoyment thereof, or for any damages he may sustain by reason of any action which may be taken by the 40 Government of the said Province in respect to the grant now made.

The Committee submit the above recommendation for your Excellency's approval.

Certified,

W. A. HIMSWORTH,

Clerk Privy Council.

*Report of the Minister of the Interior (Canada).**

DEPARTMENT OF THE INTERIOR,
June 2nd, 1874.

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The undersigned has to report that on the 16th May, 1872, a Report of the Honourable the Privy Council was approved, embodying a memorandum from the Honourable the Minister of Justice, having reference to the boundaries of the northern and western part of Ontario, wherein the Minister of Justice calls "attention to the fact that the mineral wealth of the North-West country is likely to attract a large immigration into those parts, and with a view to its development, as well as to prevent the confusion and strife that is certain to arise and continue among the
10 miners and other settlers as long as the uncertainty as to boundary exists, the undersigned begs leave to recommend that the Government of Ontario be urged to arrange with that of the Dominion for some joint course of action as to the granting of land," etc.

That as the Indian title of a considerable part of the territory in dispute had not then been extinguished, it was thought desirable to postpone the negotiations for a conventional arrangement, under which the territory might be opened for sale or settlement, until a treaty was concluded with the Indians.

That barrier being now removed, the undersigned has the honour to recommend that as some considerable time must yet elapse before the boundaries of Ontario can be finally adjusted, it is desirable, in the meantime, to agree upon conventional boundaries, otherwise the development of
20 that portion of Canada lying between Lake Superior and Lake of the Woods will be seriously retarded, as applications to take up lands in that section are being constantly made, and the inability to obtain recognition of claims from either the Government of Ottawa or Toronto is impeding the settlement of the country.

The undersigned would therefore suggest that the Ontario Government be invited to arrange with the Dominion Government for some joint course of action as to the granting of land and adjusting disputed rights in the territory claimed by both Governments, and that the Ontario Government be moved to appoint a Commissioner to meet the undersigned and arrange some joint system for the sale of lands, by the adoption of a conventional boundary on the west and north, and that after the final adjustment of the true boundaries, titles to the land should be confirmed
30 by the Government, whether of Ontario or the Dominion, whichever should be the proper party to legalize the same.

DAVID LAIRD,

Minister of the Interior.

*Report of a Committee of the Privy Council (Canada), approved by the Governor-General,
3rd June, 1874.†*

The Committee of the Privy Council have had under consideration the Memorandum, dated 2nd June, and hereunto annexed, from the Honourable the Minister of the Interior, representing that as some considerable time must elapse before the northern and western boundaries of Ontario can be finally adjusted, it is desirable, in the meantime, to agree upon conventional boundaries, and suggesting that the Ontario Government be moved to appoint a Commissioner to meet with him,
40 the Minister of the Interior, and arrange some joint system for the sale of lands, and adjusting disputed rights, in the territory claimed by both Governments, by the adoption of a conventional boundary on the west and north, and that, after the final adjustment of the true boundaries, titles

* Sess. Papers, Ont., 1875-6. No. 14. p. 8. † *Ibid.* p. 7.

to lands should be confirmed by the Government, whether of Ontario or the Dominion, whichever should be the proper party to legalize the same.

The Committee concur in the recommendation submitted in the said memorandum, and submit the same for your Excellency's approval.

W. A. HIMSWORTH,
Clerk, Privy Council.

*Extract from Report of Committee of Privy Council (Canada), approved by the Governor-General
19th June, 1874.*

As, however, since the making of the treaty, the land thereby ceded has passed, under the operation of the Confederation Act, into the possession of the Local Government of Ontario, that Government having received the same chargeable with its liabilities under the treaty, he (the Minister of the Interior) submits that the attention of the Local Government should be called to the terms of the treaty, and that they should be invited to enable the Dominion Government to make such increase in the annuity thereby secured to the Indians as they may be thought entitled to under its provisions.

*Memorandum of Agreement between the Governments of the Dominion and of Ontario for
Provisional Boundary in respect of Patents of Lands, 26th June, 1874.**

The Government of the Dominion of Canada having, by an Order in Council dated the 3rd day of June, 1874, suggested that the Ontario Government should be moved to appoint a Commissioner to meet the Minister of the Interior and "arrange some joint system for the sale of lands, and adjusting disputed rights in the territory claimed by both Governments, by the adoption of a conventional boundary on the west and north, and that after the final adjustment of the true boundaries, titles to lands should be confirmed by the Government, whether of Ontario or the Dominion, whichever should be the proper party to legalize the same."

And the Ontario Government having acted on the suggestion of the Privy Council by appointing the Commissioner of Crown Lands of that Province to meet the Minister of the Interior, and discuss the proposed arrangements, and the said parties having met this day, have agreed to the following propositions as the basis of a memorandum to be submitted to their respective Governments:—

1. That the conventional boundary of the Province of Ontario, for the purposes set forth in the said Order in Council of the 3rd June instant, shall be, on the west, the meridian line passing through the most easterly point of Hunter's Island, run south until it meets the boundary line between the United States and Canada, and north until it intersects the fifty-first parallel of latitude; and the said fifty-first parallel of latitude shall be the conventional boundary of the Province of Ontario on the north.

2. That all patents for lands in the disputed territory, to the east and south of the said conventional boundaries, until the true boundaries can be adjusted, shall be issued by the Government of Ontario; and all patents of lands on the west or north of these conventional boundaries shall be issued by the Dominion Government.

3. That when the true west and north boundaries of Ontario shall have been definitely adjusted, each of the respective Governments shall confirm and ratify such patents as may have been issued by the other for lands then ascertained not to be within the territory of the Government which granted them, and each of the respective Governments shall also account for the proceeds of such lands as the true boundaries, when determined, may show to belong of right to the other.

* Sess. Papers, Ont., 1875-6, No. 14, p. 10.

4. That the Government of the Dominion shall transfer to the Government of the Province of Ontario all applications for lands lying to the east and south of the conventional boundaries, and also all deposits paid on the same ; and the Ontario Government shall transfer to the Dominion Government all applications for lands lying to the west or north of the said boundaries, and likewise all deposits paid thereon ; and such of the said applications as are *bona fide* and in proper form, shall be dealt with finally, according to the priority of the original filing, and where applications for the same lands have been filed in the Departments of both Governments, the priority shall be reckoned as if all had been filed in one and the same office.

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Signed in duplicate, this 26th day of June, 1874.

10

DAVID LAIRD,
Minister of the Interior

T. B. PARDEE,
Commissioner of Crown Lands.

*Report of a Committee of the Privy Council (Canada), approved by the Governor-General, 8th July, 1874.**

The Committee have had under consideration a memorandum, dated 29th June, 1874, from the Honourable the Minister of the Interior, stating that, in pursuance of the suggestion contained in the Minute in Council of the 3rd June inst., relative to a provisional arrangement respecting the western and northern boundaries of the Province of Ontario and the questions therewith connected, the Ontario Government appointed the Hon. T. B. Pardee, Commissioner of Crown Lands in that Province, to meet him, the Minister of the Interior, at his office, with a view to their arriving at some understanding of a provisional nature on the subjects referred, and that on the 26th June ult., the memorandum hereto annexed was agreed upon, and he submits the same for the consideration of your Excellency in Council.

The Committee are of opinion that the provisional arrangement proposed in the said memorandum is unobjectionable, and advise that the same be sanctioned by your Excellency in Council

Certified.

W. A. HIMSWORTH,

C. P. C.

30

Order in Council (Ontario), approved by the Lieutenant-Governor, 9th July, 1874.†

The Committee of Council have had under consideration the Report of the Honourable the Commissioner of Crown Lands, dated 2nd July, 1874, submitting for ratification and approval by your Excellency a joint memorandum signed by the Hon. David Laird, Minister of the Interior of the Dominion of Canada, and the Honourable the Commissioner of Crown Lands, whereof a copy is hereunto annexed, fixing a temporary conventional boundary of the Province of Ontario on the west and north, and adopting a system for the sale of lands and for adjusting disputed rights in the territory claimed by both Governments.

The Committee advise that the arrangements proposed in the said memorandum be adopted and ratified by your Excellency.

Certified.

J. G. SCOTT,
Clerk, Executive Council, Ontario.

*Extracts from the Report of the Honourable O. Mowat, Attorney-General of Ontario, dated 14th October, 1874, concurred in by Lieutenant-Governor in Council, 30th October, 1874.**

[Referring to receipt of Order in Council of 9th July, 1873, printed on p. 7, *ante*], the undersigned presumes that this matter was brought under the notice of this Government with the view of contending that upon this Province devolves the burden of any increase of the annuities.

The undersigned respectfully submits that there is no sufficient ground for this contention.

Under the B. N. A. Act, and the Dominion Act, 36 Vic., cap. 30, the Dominion assumes the debts and liabilities of each Province existing at the time of the Union, except so far as the general language of sec. 111 of the B. N. A. Act is controlled by sec. 109, which subjects the property of every Province to any trusts existing in respect thereof, and to any interest other than that of the Province. The lands now in question were not subject to any trust. Legally, they were the property of the Crown before the surrender. The so-called title of the Indians was one of courtesy only, and was by the treaties extinguished absolutely, in order that these lands might be opened up for settlement, and that patents might be issued therefor to purchasers. It was not contemplated that the annuities should be a lien upon the lands, the liability for the amount of the annuities being assumed as a charge upon the entire revenue of the Province.

Besides, the policy of the B. N. A. Act was to place all matters relating to the Indians under the exclusive authority of the Dominion Parliament and Government, and not to leave the rights of those people to depend on, or to be dealt with, by Provincial authorities.

The question of the liability of Ontario in respect of the Indian annuities was fully discussed by the respective Counsel for the Provinces of Ontario and Quebec, before the arbitrators appointed under the B. N. A. Act, and the undersigned is of opinion that the arguments which were advanced by Counsel then representing Ontario, and which were afterwards printed, establish conclusively that this Province is not liable to be charged with the Indian annuities.

If the Dominion Government is advised that the lands in question are subject to a trust, the undersigned would suggest that the point should be forthwith submitted to the Court of Chancery, on a statement of facts concurred in by the Governments concerned, or that the Dominion Government should settle with the Indians without prejudice to any question as to what Government ought ultimately to pay the proposed increase.

Extracts from Report of the Honourable Edward Blake, Minister of Justice (Canada), dated 30th October, 1875.†

[After reciting 111th and 109th sections of B. N. A. Act]—It appears to the undersigned that the liability to the Indians to which he has referred comes within the 111th section, and this whether or no Canada be entitled to claim that the lands in question are under the 109th section charged in any way with the satisfaction of that liability.

The papers show that the Government of Ontario repudiate any such charge, and that this view was asserted by the Counsel for the Province during the arbitration between the two Provinces. The Government of Ontario, however, acknowledging that the Indians are entitled to an increase, propose that the Government of Canada should settle with the Indians without prejudice to any question as to what Government ought ultimately to pay the proposed increase.

The Government of Ontario also suggests that the question as to the liability of the Province, or of these specific lands under the 109th section, should be submitted to the Court of Chancery. Having regard to the circumstance connected with the obtaining of this treaty in particular, and to the general policy of the Canadian and British Governments with reference to the Indians, it

* Sess. Papers, Can., 1879, No. 127, pp. 14, 15. † *Id.*, p. 22.

would seem to be of great importance that their just demand should be met without further delay; and the undersigned recommends that the suggestion of the Government of Ontario should be acted upon, and that the increased annuity for the current year should be paid, without prejudice to any question, by this Government.

The question of arrears might be postponed for a while, and, meantime, the question as to the liability of the Ontario Government on the specific lands might be decided either by the Court of Chancery as proposed, or by the Supreme Court, after the organization of that tribunal.

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*Extract from letter of E. B. Borron, M.P., Sault Ste. Marie, to Minister of Interior, dated 23rd November, 1877.**

- 10 Please try and wring out of the Province of Ontario some portion of the arrears of annuity for which the Province is, as I conceive, both honourably and legally liable—solely liable since Confederation, and together with Quebec before Confederation. The concluding portion of section 109 of the B. N. A. Act is quite conclusive against the Province of Ontario, in my humble opinion, as far as the arrears since 1867 are concerned. This portion of the Indian claims Ontario should pay at once, unless the Provincial Government intends to dispute their liability altogether, and throw the whole on to the Dominion. The arrears that have occurred from 1850 to 1867, Quebec is partly responsible for, and this portion of the claim may be more troublesome to arrange.

Memorandum of the Minister of the Interior (Canada).†

DEPARTMENT OF THE INTERIOR,

OTTAWA, 16th April, 1878.

20

The undersigned has the honour to report to Council that Mr. W. J. Macaulay, . . . has now submitted a plan and descriptions dated the 11th inst., showing selections and surveys of pine lands, amounting in all to an area of $74\frac{59}{100}$ square miles, . . .

The undersigned respectfully recommends that the selection and survey now reported by him be approved. . . .

It is suggested, should Council approve, that Mr. Macaulay receive a lease of the $74\frac{59}{100}$ square miles now reported, the remaining $25\frac{41}{100}$ square miles to be included in an additional lease upon the same being surveyed and reported.

- 30 It is of course understood, as set forth in preceding Orders in Council on this subject, that on the adjustment of the question of boundary between the Dominion and the Province of Ontario, should the limits granted to Mr. Macaulay prove to be within the said Province, this Government shall not be held liable to him in any way to secure his continuing in the enjoyment thereof, or for any damages which he may sustain by reason of any action which may be taken by the Government of the said Province in respect of the limits now granted.

Respectfully submitted,

DAVID MILLS,

Minister of the Interior.

Report of a Committee of the Privy Council (Canada), approved by the Governor-General, 18th April, 1878. ‡

- 40 The Committee of Council have had before them the Memorandum hereunto annexed, dated 16th April, 1878, from the Hon. the Minister of the Interior, relative to a timber limit of one

* Sess. Papers, Can., 1879, No. 127, pp. 35-6. † Sess. Papers, Can., 1881, No. 86, p. 9. ‡ *Ibid.*

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hundred square miles in area on the east shore of the Lake of the Woods, or in that vicinity granted to Mr. W. J. Macaulay on the 14th April, 1874, such limit to be selected and surveyed by him, and whose claim as to the area was confirmed by a second Order in Council, dated the 8th March, 1876, and they advise that the recommendations submitted in said memorandum be approved and acted on.

Certified, W. A. HIMSWORTH,
C.P.C.

*Memorandum of the Minister of the Interior (Canada).**

DEPARTMENT OF THE INTERIOR,

OTTAWA, 24th April, 1878.

10

Memorandum.

Referring to the terms of the Order in Council dated the 8th July, 1874, relative to the provisional arrangement respecting the westerly and northerly boundaries of Ontario, intended to provide a joint system for the administration of the lands within the territories claimed by the respective Governments of the Dominion and Ontario, the undersigned has the honour to call the attention of Council to the fact that while all necessary provision is made therein for the confirmation eventually of any patents issued by either Government, it is not specifically mentioned in the said Order that any lease granted by either Government in the interim shall similarly be ratified.

The question has been brought under the notice of the undersigned, in connection with the 20 lease recently authorized by Council to Mr. Macaulay for a timber limit situate in Keewatin, between the Lake of the Woods and Rainy Lake; and the undersigned having been advised by the Deputy Minister of Justice that it would be desirable to add the right of giving leases to that of making grants of land, to the respective Governments, over the country apportioned to each by the conventional boundary, respectfully recommends that communication be had with the Government of Ontario with that in view, the understanding to be that all such leases shall be ratified and confirmed, and that all bonuses, rents and royalties received by either Government for limits which may prove to be situate within the true boundaries of the other, shall be transferred in accordance with the Sections 3 and 4 of the Order in Council quoted.

Respectfully submitted,

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DAVID MILLS,

Minister of the Interior.

Report of the Committee of the Privy Council (Canada), approved by the Governor-General, 29th April, 1878.†

On a memorandum, dated 24th April, 1878, from the Honourable the Minister of the Interior, having reference to the terms of the Order in Council, dated the 8th July, 1874, relative to the provisional arrangement respecting the westerly and northerly boundaries of Ontario, and recommending that communication be had with the Government of Ontario, with a view to an understanding that all leases shall be ratified and confirmed, and that all bonuses, rents and royalties received by either Government for limits which may prove to be situate within the true 40 boundaries of the other, shall be transferred in accordance with the Sections 3 and 4 of the Order in Council quoted.

The Committee submit the foregoing recommendations for your Excellency's approval.

Certified.

W. A. HIMSWORTH,
C. P. C.

*Report of the Honourable O. Mowat, Attorney-General, 7th May, 1878, adopted by Order in Council, 9th May, 1878.**

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Referring to the terms of the joint memorandum signed by the Hon. David Laird, formerly Minister of the Interior of the Dominion of Canada, and the Hon. T. B. Pardee, Commissioner of Crown Lands of this Province, fixing a conventional temporary boundary of the Province of Ontario on the west and north, and adopting a system for the sale of lands, and for adjusting disputed rights in the territory claimed by both Governments, and which memorandum was approved by His Excellency the Governor-General, on the 8th day of July, 1874, and by His Honour the Lieutenant-Governor of Ontario on the ninth of the same month, the undersigned has the honour to report that an order of His Excellency the Governor-General was passed on the 29th April, 1878, in which attention was called to the fact that while all necessary provision is made by the said memorandum for the confirmation eventually of any patents issued by either Government, that it is not mentioned that any lease granted by either Government in the interim shall be similarly ratified, and recommending that communication should be had with this Government, with a view to an understanding that all leases should be ratified and confirmed, and that all bonuses, rents, and royalties received by either Government for limits which might be proved to be situate within the true boundaries of the other, should be transferred in accordance with sections 3 and 4 of the said memorandum.

The undersigned respectfully recommends that an Order in Council be passed, declaring that all leases, and licenses and applications therefor, shall be subject to the stipulations contained in the said memorandum in respect of patents of land and applications therefor, and all bonuses, rents and royalties, received by either Government for limits which may prove to be situate within the true boundaries of the other shall be transferred in accordance with the provisions of the 3rd and 4th sections of the said memorandum, as extended by such order.

Order in Council (Ontario), approved by the Lieutenant-Governor, 9th day of May, 1878.†

Upon consideration of the Report of the Honorable the Attorney-General, the Committee of Council advise that it be declared that all leases and licenses and applications therefor, shall be subject to the stipulations contained in the joint memorandum signed by the Honourable David Laird, formerly Minister of the Interior of the Dominion of Canada, and the Honourable T. B. Pardee, Commissioner of Crown Lands of this Province, fixing a temporary conventional boundary of this Province on the west and north, and adopting a system for the sale of lands, and for adjusting disputed rights, in the territory claimed by both Governments, in respect of patents of lands and applications therefor; and further, that all bonuses, rents and royalties received by either Government for limits which may prove to be situate within the boundaries of the other, shall be transferred in accordance with the provisions of the third and fourth sections of the said memorandum as extended by this Order.

Certified.

J. G. SCOTT,

Clerk Executive Council.

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Report of a Committee of the Privy Council, approved by the Governor-General, 5th April, 1880.‡

On a memorandum, dated 31st March, 1880, from the Hon. the Minister of the Interior, having reference to the Order in Council of the 18th April, 1878, granting a timber limit of one hundred square miles in area to Mr. W. J. Macaulay on the 14th April, 1874, and recommending a lease to issue for 74⁵⁹/₁₀₀ square miles of the said area, the remaining 25⁴¹/₁₀₀ square miles to be included in an additional lease, upon the same being surveyed and reported.

* Sess. Papers, Can., 1882, No. 37, p. 25. † Sess. Papers, Ont., 1882, No. 69, p. 264. ‡ Sess. Papers, Can., 1881, No. 86, p. 10.

The Minister states that Mr. Macaulay has furnished the necessary plans and descriptions, made by a surveyor, setting forth the remaining 25⁴¹/₁₀₀ to be leased to him as above, and is pressing for the issue of the lease for the same.

That the land in question is included within that portion of Keewatin which, by the award of the Boundary Arbitrators, would be included in the Province of Ontario; but that the said award not having been confirmed, and as by the terms of the Order in Council of the 8th July, 1874, it was agreed between the Government of Ontario and the Government of Canada that the Dominion should have the right to receive applications and grant patents for the lands lying westerly of a certain provisional boundary described in the said Order in Council, that is to say, west of a meridian line passing through the most easterly point of Hunter's Island, running north 10 until it intersects the 51st parallel of latitude, and the situation of the lands in question as regards the right of the Government to deal therewith remains the same as formerly,—he, the Minister, sees no reason why the Order in Council in Macaulay's favor of the 18th April, 1878, as regards the lease of the remaining 25⁴¹/₁₀₀ square miles, should not be given effect to, and accordingly recommends the same to the favourable consideration of Council.

The Committee submits the above recommendation for Your Excellency's approval.

Certified, J. O. COTÉ,
C.P.C.

*Debate in the House of Commons, Canada, upon the Bill, "To provide for the Extension of the Boundaries of Manitoba," 18th March, 1881.** 10

SIR JOHN A. MACDONALD, in moving the second reading of Bill No. 98, an Act to provide for the extension of the boundaries of the Province of Manitoba, said. . . . The clauses of the Bill are as follows :

1. The Province of Manitoba shall be increased as hereinafter defined, that is to say, so that the boundaries thereof shall be as follows :—"Commencing at the intersection of the International Boundary dividing Canada from the United States of America by the centre of the road allowance between the 29th and 30th Ranges of Townships lying west of the first principal meridian in the system of the Dominion land surveys ; thence northerly following upon the said centre of the said road allowance as the same is or may hereafter be located, defining the said range line on the ground across Townships one to forty-six, both inclusive, to the intersection of the said centre of the said road allowance by the centre of the road allowance on the twelfth base line in the said system of Dominion land surveys ; thence easterly along the said centre of the road allowance on the twelfth base line, following the same to its intersection by the easterly limit of the District of Keewatin, as defined by the Act 39 Vict., c. 21, that is to say, to a point where the said centre of the road allowance on the twelfth base line would be intersected by a line drawn due north from where the westerly boundary of the Province of Ontario intersects the aforesaid International Boundary Line dividing Canada from the United States of America ; thence due south, following upon the said line to the International Boundary aforesaid ; and thence westerly, following upon the said International Boundary Line dividing Canada from the United States of America, to the place of beginning," and all the land embraced by the said description, not now within the Province of Manitoba, shall from and after the passing of this Act, be added thereto, and the whole shall, from and after the said date, form and be the Province of Manitoba 20

4. This Act shall come into force only upon from and after a day to be appointed in that behalf by proclamation 30 of the Governor published in the *Canada Gazette*.

I move the second reading of the Bill.

(In the Committee.)

MR. MILLS.—Suppose this Bill is carried as you proposed, and you issue your proclamation at once, how do you propose the settlements at Rainy River, Prince Arthur's Landing, and elsewhere, shall be governed? Which will have jurisdiction, Ontario or Manitoba, both of which claim it? The honourable gentleman proposes to disregard by this Bill the conventional boundary which has been agreed on between the Dominion and Ontario.

SIR JOHN A. MACDONALD.—There never was a convention that settled the boundary line. An arrangement was made between Ontario and the Dominion, by which the Dominion would sell the lands west of a particular line, and the Province of Ontario would sell those east of that line; and when the boundary was finally settled, the accounts for moneys received on sale of lands would be adjusted between the two Governments. Whether this Bill will pass or not will not affect that arrangement. The same uncertainty will prevail in either case.

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MR. MCDUGALL.—There is this difference, that at present the Ontario Government assume the right, not only to deal with lands and sell them up to the conventional boundary, but to survey and establish townships, and these townships, so organized, come under the Municipal Law of Ontario. Under this Bill, the Province of Manitoba may assume not only that it will have the right to organize townships to the conventional boundary, but also to the point marked on this map. I hope we shall not be met by some Dawson hereafter who will rake up this map and say we have committed ourselves to this boundary.

SIR JOHN A. MACDONALD.—By extending the boundaries of Manitoba, it does not affect the proprietorship of the land. The land in the extended boundary belongs to the Dominion still. The convention is merely as to the sale of the lands, and that convention still exists, notwithstanding that these lands are included in the Province of Manitoba. The Province of Ontario will go on surveying these lands, and selling them as it does now, until the boundary is settled. The whole arrangement is simply this: the sooner the boundary is settled the better.

MR. DREW.— . . . I am satisfied that the people of Prince Arthur's Landing could be as well governed from Winnipeg as from Toronto; probably they would prefer being governed from Toronto. . . . I think it is the feeling of Ontario, as well as of Manitoba, that the two Provinces should join—that there should be no territory between them; and I cannot see how serious trouble between Ontario and Manitoba can be avoided if the Bill passes in its present shape.

SIR JOHN A. MACDONALD.—I wish to say to my honourable friend that if Prince Arthur's Landing is not within the boundaries of Ontario, the laws which are proposed to be put in execution there are not laws at all; for the Legislature of Ontario has no right to pass laws affecting that territory if it is within our bounds, and all their proceedings there would be illegal. We would then be perpetuating an illegality. It is no matter whether that illegality is caused by the Province of Ontario or the Province of Manitoba; if this land is not in the Province of Ontario it is in the North-West Territory, and is covered by the laws of the North-West Territory, which are not the laws of Ontario. Whether the conflict is with the laws of Ontario or the laws of Manitoba is a matter of no consequence, so long as there is a conflict. The people of Prince Arthur's Landing may resist the processes of law; they may say to the sheriff that he is committing an illegality.

MR. MCDUGALL.—Do not tell them the way, or they may do it.

SIR JOHN A. MACDONALD.—It has been done already. A man may say to another who brings a suit against him, "This is the process of an Ontario Court, and Ontario laws do not extend here, because we are not a part of that Province." The same thing might happen with regard to every process of law and every title, whether the boundary is settled or not. The effect of settling the boundary between these Provinces will compel, I do not say the Province of Ontario, but the present Government of Ontario, to be reasonable, and not to insist upon a boundary which cannot be supported in any court or tribunal in the world. They will come to terms quickly enough when they find that they must do so. . . .

MR. BLAKE.—I rise to move an amendment to this Bill. . . . I move

That the Bill be re-committed to a Committee of the Whole, with instructions that they have power to amend the same so as to provide some definite eastern limit beyond which Manitoba shall not be deemed to extend, pending the settlement of the western boundary of Ontario.

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SIR JOHN A. MACDONALD.— . . . One would suppose from the honourable gentleman's speech that we had taken possession of the western part of Algoma, had deprived Ontario of it, and handed it over to Manitoba. We in this Bill interfere with no right that Ontario has or ever had. The possessory and legal right, the equitable claim and constitutional rights of Ontario will be the same after this Bill passes as they ever were. This Bill does not determine a line, or settle any line, but simply says, in effect, that there ought not to be an intervening space of foreign country lying between Ontario and the eastern townships of Manitoba. . . . That region must essentially either belong to Ontario or Manitoba. That being the case, how will it stand now? Here we are extending the boundaries of Manitoba running north, to give the Province sufficient depth from the International Boundary, and running west, also, to give it a sufficient spread in regard to latitude, 10 and cutting off the main portion of the North-West region from the barren strip between Ontario and Manitoba. How is that strip to be governed? It cannot be governed by officials that live to the west of Manitoba, because the whole of Manitoba lies between this territory and the North-West. You must have a separate government and officers, and separate courts in that small strip of land, and for the straggling, lumbering, fishing, vagrant population that will go into this section. We are asked to keep that section hopelessly in that condition at the expense of the Dominion, with a separate organization, and to do that forever until the boundary is settled. As a matter of convenience, and of necessity almost, for the purpose of saving expense, this barren strip is handed over to Manitoba. Honourable gentlemen opposite say we assert that Thunder Bay and Prince Arthur's Landing all belong to the North-West, and not to Ontario. That is a simple question of 20 law. It may or may not be so. The question of whether it be a portion of Ontario or of the North-West, can only be decided by slow trial. Honourable gentlemen opposite also say that by this Bill a great element of disturbance is introduced. It is not so. Supposing at this moment that any person in Algoma or Thunder Bay should be prosecuted or sued on writs issued from the Courts of Ontario, any person could dispute that and bring the matter to a trial, any person could resist an Ontario writ on the ground that the place was not a portion of Ontario, that it belonged to the North-West, and that a writ from Ontario could not run in that district. The disturbing questions that could arise there must equally arise whether the country belongs to the Dominion or Ontario, until a line is settled. So there is really nothing in that objection. On the other hand, it is of very great importance, if this strip of land really does belong to the Dominion, that it should hand 30 it to one of the neighboring Provinces—Ontario or Manitoba. It is unwise to keep it as a territory, and impossible to keep it as a separate Province. It must be given either to Ontario or Manitoba; and we cannot afford to give it to Ontario, if it belongs to the Dominion, because the lands would belong to Ontario. Keeping it as a portion of Manitoba the lands belong to the Dominion. In reply to the Member for West Durham, I may say I stated that a great portion of the lands were barren; but the lands in the vicinity of the Lake of the Woods are better, and valuable for their timber. Now if this land really belongs to the Dominion, it is the duty of the Dominion Parliament and Government to see the rights of the Dominion maintained. . . .

MR. MCDUGALL.—I understand that a member of the Government in another place has made a statement that the effect of this Bill would be to place the townships and people in the neighbour- 40 hood of Prince Arthur's Landing under the control of the Province of Manitoba, or something to that effect. I have felt from the first that we were taking a course which would lead necessarily to very great embarrassment. Now, I am of opinion that the Government of the Dominion and the Government of Ontario having agreed upon a conventional boundary in that region of the world, the two Governments should proceed jointly to deal with the lands, to survey the townships, to treat that portion of the country as under their jurisdiction legally. We, having assented to that arrangement, it does seem to me that it would be very inexpedient to disturb it or to proceed in a way that would involve any risk or doubt as to the security of those people under their present institutions until this question is finally disposed of. In that view, I desire to move an amendment to the amendment, that the words "that the conventional boundary agreed upon 50 between the Government of the Dominion and the Government of Ontario shall be the," be substituted for the words "to some defined eastern limit" in the said amendment. . . . I

do not see any difficulty whatever in simply maintaining the *status quo* until this important question is settled by such means as the two Governments shall ultimately agree upon. Therefore I prefer to the amendment the honourable gentleman has moved, the statement made once for all, that the conventional boundary already agreed upon, and acted upon, the boundary recognized by the people living in that part of the country, shall be the conventional boundary until that settlement is made. I think this is due to the Province of Ontario and the people who have settled there, and I do not see why any gentlemen from the other Provinces should see any danger in acquiescing in that arrangement.

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SIR JOHN A. MACDONALD.— . . . I would point out to my honourable friend the member
10 for Halton (Mr. McDougall), that the conventional line of which he speaks has not the effect of giving authority to Ontario up to that conventional line.

MR. MCDUGALL.—They have exercised it.

SIR JOHN A. MACDONALD.—No; they have not. They have assumed that the land at the western extremity of Lake Superior belonged to Ontario. The conventional line lies far in the interior, and was established, not for the purpose of declaring that the eastern half would belong to Ontario, and the western half to the Dominion; but, for the sake of convenience, in order to let people buy land, and for no other purpose whatever, no matter whether the land belonged to the Dominion or the Province, so that a Dominion sale, west of that line, would be recognized by the Province of Ontario just as a Provincial sale to the east of that line would be recognized by the
20 Dominion; and when the line was finally defined, they would settle the accounts. It was a mere matter of keeping accounts of the sale of lands. . . .

MR. BLAKE.—I desire to place on record my views as to the propriety of making arrangements in any bill of this description, which are to preserve all the benefits and advantages of the existing conventional arrangement. I do not agree with the honourable gentleman that that arrangement is of so little consequence as he declares it. I read it to be an agreement for the settlement of a conventional boundary, and to provide for the administration of the lands, the proceeds of which would go to the true owners when the true boundaries would be settled. Since then, each party to the agreement has dealt with its own portion, according to the conventional agreement, and the introduction of this new element of dispute will be nothing less than calamitous. I move—

30 That the Bill be re-committed to a Committee of the Whole, with instructions that they have power to amend the same, so as to provide that the existing conditions under the Conventional Boundary agreed upon by the Governments of Canada and Ontario in 1874 shall not, pending the settlement of the true boundary, be affected prejudicially to the interests of either of the contracting parties, or to those of the inhabitants of Prince Arthur's Landing, Thunder Bay, and other parts of the territory which have been under the control of and treated as part of Ontario, and are represented in this House as part of that Province.

Amendment lost.

—
*Resolution of the House of Commons of Canada, adopted 4th April, 1882.**

That, in the opinion of this House, it is expedient that the western and northern boundaries of the Province of Ontario should be finally settled by a reference to, and an authoritative decision by, either the Supreme Court of Canada or the Judicial Committee of the Privy Council in
40 Great Britain, or by the Supreme Court in the first place, subject to a final submission to the Judicial Committee, as the Province of Ontario may choose; that such decision should be obtained either on appeal in a friendly action brought for the purpose, or by reference to the said courts, or either or both of them, by Her Majesty, under the powers conferred upon her by the Imperial and Canadian Parliaments, as the Government of Ontario may prefer; and that the said reference should be based on the evidence collected and printed, with any additional documentary evidence, if such there is, and that pending the reference the administration of the lands shall be entrusted to a Joint Commission appointed by the Governments of Canada and Ontario.

* Journals Ho. of Com., 1882, p. 254.

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OTTAWA, 2nd September, 1882.

Correspondence, Orders in Council, etc., of the Governments of the Dominion and of Ontario.

SIR,—I am commanded by His Excellency the Governor-General to inform you that on the fourth day of April last, during the late Session of the Parliament of Canada, the following resolution was adopted:—[Here follows the preceding resolution].

This resolution was passed by a large majority of the members of the House, the Yeas being one hundred and sixteen, and the Nays forty-four.

His Excellency desires me to invite the attention of your Government to this unmistakable expression of opinion of the Representatives of the People of the Dominion, and further to state that his Ministers are not only prepared, but anxious, to make all necessary arrangements in 10 conjunction with the Government of Ontario for giving effect to such resolution with all convenient speed.

I have the honour to be, Sir,

Your obedient servant,

HECTOR L. LANGEVIN,

For Secretary of State.

His Honour,

The Lieutenant-Governor of the Province of Ontario,

Or the Officer administering the affairs of the said Province.

PAPERS RELATING TO THE ABROGATION OF THE PROVISIONAL BOUNDARY, ETC.

The Provincial Secretary (Ontario) to the Secretary of State (Canada).†

20

PROVINCIAL SECRETARY'S OFFICE, ONTARIO,

TORONTO, 19th December, 1879.

SIR,—I have the honour to call your attention to my despatch bearing date the 31st day of December, 1878, and to intimate that the Government of Ontario have not yet been favoured with the reply of your Government to the suggestions made and information sought by my communication. I beg further to intimate that the Arbitrators having made their award, the Government of the Province understand that the provisional arrangement theretofore in force between the Province and the Dominion, having reference to the boundary and the north-west portion of the Province, is at an end, the award having "definitely settled" the boundaries between the Province and the Dominion.

30

I have the honour to be, Sir,

Your obedient servant,

ARTHUR S. HARDY,

Provincial Secretary.

Hon. J. C. Aikins,

Secretary of State, Ottawa.

The Lieutenant-Governor of Ontario to the Secretary of State (Canada).‡

GOVERNMENT HOUSE,

TORONTO, 31st December, 1881.

SIR,—I beg to call your attention to the unfortunate condition of that large portion of this 40 Province to which the Federal authorities dispute our right. I desire specially to refer to that

* Sess. Papers Ont., 1883, No. 23, p. 4. † Sess. Papers, Ontario, 1880, No. 46, p. 2. ‡ Sess. Papers, Ont.,

part of the disputed territory, comprising about 39,000 square miles, which lies on the westerly side of this Province, and to which, by the Act of last session for the extension of the boundaries of the Province of Manitoba (44 Vic., cap. 14), the Federal Parliament transferred to that Province the claim of the Dominion, so far as relates to the Provincial jurisdiction therein.

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I beg to remind you that the importance of having settled, without further delay, all questions in regard to the boundaries of the Province was repeatedly stated, and even insisted upon, by your Government as long ago as the year 1872. Thus in an Order in Council, approved by His Excellency the Governor-General on the 9th April, 1872, it was affirmed to be "of the greatest consequence to the peace and well-being of the country in the vicinity of the dividing line, that no question as to jurisdiction, or the means of prevention or punishment of crime, should arise or be allowed to continue;" and it was not doubted "that both Governments would feel it their duty to settle, without further delay, upon some proper mode of determining, in an authoritative manner, the true position of such boundary."

On the 1st of May in the same year, Sir John A. Macdonald, the Premier, and then Minister of Justice, made a report, which was approved by Order in Council, in which report it was stated, in reference to the disputed territory, that "it was very material that crime should not be unpunished or unprevented;" and in this view it was suggested that "the Government of Ontario be invited to concur in a statement of the case for immediate reference to the Judicial Committee of the Privy Council of England." It was further stated that "the mineral wealth of the North-
20 West country is likely to attract a large immigration into those parts; and with a view to its development, as well as to prevent the confusion and strife that is certain to arise among the miners and other settlers so long as the uncertainty as to boundary exists," it was recommended that a course of joint action should meanwhile be adopted by the Dominion and the Province "in regard to the grants of lands and of issuing licenses, reservation of royalties, etc."

By another Order in Council, approved on the 7th of November, 1872, His Excellency the Governor-General's Federal advisers obtained the sanction of the Crown to the statement that "the importance of obtaining an authoritative decision as to the limits to the north and to the west of the Province of Ontario had already been affirmed by a Minute in Council," and that "the establishment of criminal and civil jurisdiction, and the necessity of meeting the demands of settlers
30 and miners for the acquisition of titles to land, combined to render such a decision indispensable."

On the 26th of June, 1874, a provisional arrangement was made for the sale of lands in the disputed territory, which arrangement was in force from its date until 3rd August, 1878, when the award was made. By the award so much of the territory theretofore in dispute as was situate east of the meridian of the most north-western angle of the Lake of the Woods (say longitude 95° 14' 38" W.), was awarded to Ontario, and the claim theretofore made on behalf of this section of Canada to the territory beyond that meridian, to either the White Earth River or the Rocky Mountains, was negated by the Arbitrators.

I beg to remind you that from that day to this the Federal Government has made no official communication to the Government of this Province of their intention to reject the award, but my
40 Government has been left to gather this intention from the omission of the Federal Government for the first two sessions of Parliament to bring in any measure for the recognition or confirmation of the award; and from the speeches made in Parliament by Ministers during the last two sessions; and more distinctly from the transfer made last session to Manitoba by the Act already mentioned, and which Act, passed notwithstanding the remonstrances of this Government, had the effect of putting it out of the power of the Dominion to confirm the award without the concurrence of that Province.

My Government cannot doubt that the Federal authorities are aware, and will admit, that the progress of the country in the last nine years, and the realization during this period of the condition of things which in 1872 was only anticipated, have immensely increased the duty then per-

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ceived and expressed by your Government, that "no question as to jurisdiction or the means of prevention or punishment of crime should be allowed to continue;" and that there is a "necessity of meeting the demands of settlers and miners for the acquisition of titles to lands." Immigrants and others have, as anticipated, been attracted to the territory in dispute, in common with the rest of the North-West Territories; numerous settlers, miners and lumberers have now gone into the territory; a large floating population is there; also a considerable number of persons who desire to be settlers; and the lands, mines and timber of the territory are in active demand.

With respect to the timber, enormous quantities of it are being cut and removed by trespassers and others. Some of those engaged in the work assert that they have licenses, permits, or the like, from the Federal Government; and this Government has, in consequence, applied to your Govern- 10
ment for information as to how far their proceedings have had the sanction of the Dominion Government; but the information has not been given, nor has any notice been taken of the application for it.

A communication from our stipendiary magistrate in the territory (a copy of which, or of its material part, was transmitted to you on the 8th March, 1881,) shows—what also appears from other quarters—that the explorers and miners on the Lake of the Woods had suffered great disappointments and losses from the continuance of the territorial dispute; that some of them had expended all their money in exploring and surveys, expecting an early return for their investments and toil, but that nothing could be done with mining capitalists because a sure title to lands could not be procured; that the delay of another year would ruin many; that many would be driven 20
from the locality never to return, causing loss to merchants and others who had made advances to them; that the people of the locality were suffering in many ways from the unsettled condition of affairs, there being no civil court of acknowledged jurisdiction to collect debts, no land agent to locate settlers, no registry office to record deeds, and no disinterested timber agent to protect the forests; that all was uncertainty and confusion; that the claims to mineral lands had become so mixed that those who claimed locations would soon be unable to recognize their own property; that some places had been surveyed several times, the surveys covering each other; that the magistrate had no doubt there would be fighting, and perhaps murder, over these claims; that some persons were then armed to defend their supposed or assumed rights against wealthier claimants; and that whiskey-sellers were plying their illicit calling with great success, and much to the injury 30
of the district. Since the date of this communication, the Manitoba Act referred to has introduced new elements of confusion and disorder. Two sets of Provincial laws, and two sets of Provincial officers, distract the inhabitants of both the unorganized and the organized parts of the territory.

As regards the organized portions, which lie south and east of the Height of Land—and where, up to the time of Confederation, and for many years before, the authority of the laws, courts and officers of Upper Canada had always been assumed, by the Government and the population, without dispute or question, and where, since Confederation, the authority of Ontario had continued to be assumed in the same manner—the unfortunate position of the inhabitants now, was (in the debate on the Manitoba Bill), pointed out by the leader of the Government to be this: "The people of Prince Arthur's Landing may resist the processes of law; they may say to the Sheriff that he is 40
committing an illegality. A man may say to another who brings a suit against him, 'This is the process of an Ontario Court, and Ontario laws do not extend here, because we are not part of that Province.'" The same things may be said in respect of the officers and courts of Manitoba in the same territory.

I have further to remind you that since the award was made, the Government of Ontario have repeatedly called the attention of your Government to the serious practical evils which were attending the dispute, and to the importance and duty of not delaying a settlement of the question, or of making adequate provisional arrangements if the award was not to be recognized by the Federal authorities; but no measure has ever been recommended to Parliament to remove or alleviate, with reference to civil rights or the trial of civil matters, the evils thus arising from 50
varying laws and disputed jurisdiction.

In criminal matters only has something of a provisional kind been done, namely, by the Dominion Statute 43 Vic., cap. 46, continued until the end of next session by 44 Vic., cap. 15; and this legislation is so defective that no magistrate or justice of the peace acting in this disputed territory can feel any assurance that his jurisdiction will not be disputed, or his officers set at defiance or sued in trespass.

JOINT
APPENDIX.

Sec. I.
Correspondence, Orders in Council, etc., of the Governments of the Dominion and of Ontario.

An authoritative determination of the Right might be accomplished at once, by the Parliament of Canada and the Legislature of Manitoba passing Acts for this purpose, under the authority of the Imperial Act 34 and 35 Vic., cap. 28; and otherwise. But my Government are aware that the policy of the present Federal Government and Parliament forbids any expectation of that course
10 being adopted.

In 1872 your Government proposed an immediate reference to the Judicial Committee of the Privy Council; and it was suggested in a communication to the Government of Ontario that "no other tribunal than that of the Queen in Council would be satisfactory to the other Provinces of the Dominion, in a decision of questions in which they have a large interest, the importance of which is by current events being constantly and repeatedly augmented." My Government have observed also that in the debate in the Senate on the Manitoba Bill, last session, Sir Alexander Campbell, speaking for the Government, said, "The boundary line will have to be settled. It will be settled, I suppose, by some reference to the Judicial Committee of the Privy Council of England, or some other tribunal. No particular burden will be thrown on Manitoba to procure a settlement."
20 Speaking of the boundary line, the same Minister further observed: "Its location is a matter of dispute; and all we can do is to endeavour to get Ontario to agree to some tribunal by which it can be settled."

In the House of Commons' debate on the same Bill, at a subsequent time, the Premier said, speaking of his predecessors: "The Government were peculiarly bound to see that the question was left to a tribunal that could speak authoritatively; and I do not see, unless they were afraid of their case, why they [the Ontario Government] should have objected to the Imperial tribunal, to which it must go finally. That is the only way of settling the case. All must submit to that, the highest tribunal in the Empire."

Having reference to these observations, and remembering that the award of the distinguished
30 gentlemen who were chosen by the two Governments as Arbitrators, and whose ability and impartiality have always been acknowledged, has not been satisfactory to the Federal authorities, I do not suppose that any tribunal constituted by agreement of the parties would, under all the circumstances, be proper or satisfactory.

A reference to the Judicial Committee of the Privy Council, or to any other tribunal, would involve much loss of time; and meanwhile the advices received from the territory indicate that the timber therein is being destroyed; that enormous quantities of it are being practically lost to the Province; and that the development of the territory is arrested, to the permanent injury of this Province, by the continued absence of undisputed authority to enforce order, administer justice, and grant titles. The evils arising from this state of things are so great, and are increasing
40 so rapidly, and it is so important that the Province should without further delay secure peaceable possession of whatever limits it is entitled to, that my Government would be willing, with the concurrence of the Legislature, to submit the matter to the Privy Council, on condition of consent being given by the Dominion Government and that of Manitoba, and by the Parliament of Canada and the Legislature of Manitoba, to just arrangements for the government of the territory in the meantime.

Without such provisional arrangements, this Province may as well wait for the confirmation of the award, which (so far as concerns the rights and powers still remaining to the Dominion) my Government confidently expect from another Parliament, as go to the expense, and have the unavoidable delay, of a second litigation.

From the time that it became manifest that the Dominion Government did not contemplate an early recognition of the award, provisional arrangements have from time to time been suggested by this Government, and by the Attorney-General on its behalf. I beg to refer you to the communications containing these suggestions; and I may add that your Government has not hitherto made any of them the subject of communication to this Government; nor have any counter propositions hitherto been suggested.

It may be convenient here to state the substance of these suggestions:

(1) By reason of the award, and of its accordance with the contentions of the Province and Dominion of Canada up to 1870, the *prima facie* title to the territory must be admitted to be in the Province of Ontario; and it was therefore proposed that, pending the dispute, this Province should have the authority of the Dominion to deal with the lands and timber (as in the other parts of the Province), subject to an account if the title is ultimately decided to be in the Dominion, and not in the Province. 10

(2) As (without a state of practical anarchy) there cannot continue to be two systems of law in this great territory of 39,000 square miles, the law of Ontario should, by proper legislation, be declared to govern in regard to matters which, by the British North America Act, are within Provincial jurisdiction. This, or any other arrangement with regard to these matters, will now require legislation by Manitoba.

(3) It was further proposed that, pending the dispute, the jurisdiction of our Courts and officers should be recognized and confirmed; and that the jurisdiction of our stipendiary magistrates in the disputed territory should be increased to the extent contemplated by the disallowed Act, 42 Vic., cap. 19 (Ont.). This extended jurisdiction, it may be observed, would not be so great as the jurisdiction which has been conferred by Dominion Statutes upon similar magistrates in the territories of the Dominion. To prevent doubts, there should be legislation by the Federal Parliament, and by the Legislatures of both Manitoba and Ontario. 20

The Manitoba Act of the last session of Parliament has rendered necessary the concurrence of the Government and Legislature of Manitoba in the provisional arrangements referred to. But it is presumed that such concurrence would, if now desired or approved by the Federal Government, be given gladly; for it is not to be supposed that that Province—with its small revenue, and with the enormous additional demands upon it for the government and development of its undisputed territory, increased by the same Act from 13,464 to upwards of 100,000 square miles—can desire to have the further expense and responsibility of the temporary government of 39,000 square miles of disputed territory, which may never be theirs, and to which such of the people of Manitoba as may take the trouble to learn the facts, must feel it not improbable that Ontario has the right; since such was in effect the view taken and acted upon [in every way by the successive Governments of Canada up to 1870; and since such highly competent referees as the Right Honourable Sir Edward Thornton, then Her Majesty's Ambassador at Washington, and now her Ambassador to the Court of St. Petersburg, the late Honourable Chief Justice Harrison, and the Honourable Sir Francis Hincks, K.C.M.G., declared and awarded the disputed territory to be within the boundaries of this Province. 30

I have called the Ontario Legislature to meet for the despatch of business on the 12th of January. I perceive that the Parliament of Canada is to meet in the following month, and I would respectfully urge the great importance of my being officially informed, before the meeting of our Legislature, whether the Dominion Government is now willing, with the concurrence of the Legislature of Manitoba, so far as such concurrence is necessary, to agree to the arrangements which have been suggested, and to obtain from Parliament, at its approaching session, the Dominion legislation necessary to give effect to such arrangements. Or, if the Dominion Government is not willing to agree to the arrangements suggested, my Government would be glad to be informed what the best terms are to which your Government is prepared to agree, for the final settlement of the question of right, and for the provisional government of the territory in the meantime. I beg to 40 50

remind you once more that since the award, no terms have ever been proposed to this Government with reference to either matter, unless it may be in the informal, and so far nugatory, negotiations which have recently taken place with the Attorney-General.

I beg also to renew the request made in a former despatch, but not hitherto noticed by your Government, for information as to the transactions of your Government with respect to the disputed territory since the date of the award. What my Government desire to have is, information of all transactions with respect to the timber and lands respectively, including copies of all grants, licenses, permits, regulations, instructions, letters, documents and papers of every kind relating to the same. This information my Government submit that they are entitled to receive, whether
10 there is to be a provisional arrangement or not.

It has recently been stated in the public journals that the Federal Government had assumed authority to grant to the Pacific Railway Company land for their line of road through the disputed territory, and, for timber purposes, a breadth of twenty miles on each side of this road throughout its whole length. No communication on the subject has been received from the Federal Government. If the newspaper statement is correct, my Government respectfully submit that, as the right to the territory is in dispute, no such grant should have been made without the concurrence of the Provincial authorities; and that if their concurrence was not cared for, they should at all events have had previous notice of what was contemplated, that they might have had an opportunity, by negotiation or expostulation, of seeing that, if possible, the interests of the Province were not set at
20 naught. I have respectfully to request copies of the Orders in Council and other documents (if any) relating to the transaction.

I have the honour to be, Sir,

Your obedient servant,

J. B. ROBINSON.

To the Honourable the Secretary of State, Ottawa.

*The Secretary of State (Canada) to the Lieutenant-Governor of Ontario.**

DEPARTMENT SECRETARY OF STATE,

OTTAWA, 29th January, 1883.

SIR,—I have the honour to acquaint you, for the information of your Government, that His
30 Excellency the Administrator of the Government has had under his consideration in Council the subject of the conventional boundary of the Province of Ontario on the west and north-west.

His Excellency is advised that, under an Order in Council, dated the 3rd June, 1874, on the 26th day of that month, the Government of the Dominion, being represented by Mr. Laird, Minister of the Interior, and the Government of Ontario, by Mr. Pardee, Commissioner of Crown Lands, an arrangement was entered into between the Dominion of Canada and the Province of Ontario, under which a conventional boundary of the Province of Ontario on the west and north-west was agreed to and described, and was to be recognized by both Governments, until "the true west and north-west boundaries should be definitely adjusted," which arrangement was ratified by an Order in Council, dated the 8th July, 1874, and in Ontario by an Order in Council, dated the 9th of the same month.

40 His Excellency is also advised, that in a despatch addressed by you to the Secretary of State, dated the 31st December, 1881, the following language is used :—

* Sess. Papers, Ont., 1885, No. 8, p. 35; Sess. Papers, Can., 1883, No. 95, p. 3.

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Sec. 1.

Correspondence, Orders in Council, etc., of the Governments of the Dominion and of Ontario.

"On the 26th June, 1874, a provisional arrangement was made for the sale of lands in the disputed territory, which arrangement was in force from its date until the 3rd August, 1878, when the award was made" (meaning the award of Mr. Chief Justice Harrison and his associates).

His Excellency is further advised, that it has been stated that active steps towards assuming the possession and government of the country west and north-west of the conventional line have since been taken by the Government of Ontario.

Under these circumstances, the action of the Government of Ontario in abrogating the conventional boundary, is acquiesced in by the Government of Canada.

I have the honour to be, Sir,

Your obedient servant,

10

L. S. TILLEY,

Acting Secretary of State.

Hon. Lieutenant-Governor of Ontario, Toronto.

II.

Charters.

JOINT
APPENDIX.
—
SEC. II.
Charters.

*Commission of Henry VII., to the Cabots, 5th March, 1496.**

Be it known and declared that we have given and granted, and by these presents do give and grant, to our beloved John Cabot, citizen of Venice, and Lewis, Sebastian, and Sanctius, sons of the said John, or either of them, to their and each of their heirs and deputies, full authority, privilege and power, to sail to all parts, regions, and bays, of the eastern, western, and northern sea, under our banners, standards, and insignia, with five ships or vessels, of whatever burden or quality they may be, and with so many and such sailors and men as they may choose to take with them in the
10 said ships at their own proper expense and charges, to find, discover, and explore whatever islands, countries, regions or provinces, either of gentiles or infidels, in whatever part of the world situated, which have hitherto been unknown to all Christian people.

We likewise grant and give license to the same and either of them, their or either of their heirs and deputies, to affix our aforesaid banners and insignia in any town, city, castle, island, or continent, by them newly discovered. And that the aforesaid John and his sons or heirs, and their deputies, may possess and occupy all the aforesaid towns, castles, cities, and islands, by them discovered, which of right may be subjugated and occupied, as our vassals, and their governors, lieutenants, and deputies, they obtaining for us the dominion, title, and jurisdiction of the said towns, castles, cities, and islands and continents so discovered. . . .

20 *Commission and Grant, Queen Elizabeth to Sir Humphrey Gilbert, 1578.†*

Know ye that of our especial grace, certain science, and mere motion, we have given and granted, and by these presents for us, our heirs and successors, do give and grant to our trusty and well-beloved servant, Sir Humphrey Gilbert, of Compton, in our county of Devonshire, knight, and to his heirs and assigns forever, free liberty and license, from time to time, and at all times for ever hereafter, to discover, find, search out, and view such remote, heathen and barbarous lands, countries, and territories, not actually possessed of any Christian Prince, or people, as to him, his heirs and assigns, and to every or any of them, shall seem good, and the same to have, hold, occupy and enjoy to him, his heirs and assigns forever, with all commodities, jurisdictions and royalties both by sea and land; and the said Sir Humphrey, and all such as from time to time, by
30 license of us, our heirs and successors, shall go or travel thither, to inhabit or remain there, to build and fortify at the discretion of the said Sir Humphrey, and of his heirs and assigns, the statutes or Acts of Parliament made against fugitives, or against such as shall depart, remain or continue out of our realm of England without license, or any other Act, statute, law or matter whatsoever to the contrary in any wise, notwithstanding. . . .

And further, that the said Sir Humphrey, his heirs and assigns, and every or any of them, shall have, hold, occupy and enjoy to him, his heirs or assigns, and every of them forever, all the soil of all such lands, countries and territories so to be discovered or possessed as aforesaid, and of all cities, castles, towns and villages, and places in the same, with the rights, royalties and jurisdictions, as well marine as other, within the said lands or countries or the seas thereunto adjoining,
40 to be had and used with full power to dispose thereof, and of every part thereof in fee simple, or

* Chalmers' Political Annals, Bk. I., pp. 7, 8.

† Hazard's Historical Collections, Vol. I., p. 24.

otherwise, according to the order of the laws of England, as near as the same conveniently may be, at his and their will and pleasure, to any person then being, or that shall remain within the allegiance of us, our heirs and successors, paying unto us for all services, duties and demands, the fifth part of all the ore of gold and silver, that from time to time, and at all times after such discovery, subduing and possessing shall be there gotten: all which lands, countries and territories, shall forever be holden by the said Sir Humphrey, his heirs and assigns, of us, our heirs and successors, by homage, and by the said payment of the said fifth part before reserved only for all services.

—
*Charter, Queen Elizabeth to Sir Walter Raleigh, 25th March, 1584.**

Know ye that of our especial grace, certain science, and mere motion, we have given and granted and by these presents for us, our heirs and successors, we give and grant to our trusty and well-beloved servant, Walter Raleigh, Esq., and to his heirs and assigns forever, free liberty and license, from time to time and at all times forever hereafter, to discover, search, find out and view such remote, heathen, and barbarious lands, countries and territories not actually possessed of any Christian prince, nor inhabited by Christian people, as to him, his heirs and assigns, and to every or any of them shall seem good, and the same to have, hold, occupy and enjoy to him, his heirs and assigns forever, with all prerogatives, commodities, jurisdictions, royalties, privileges, franchises and pre-eminences, thereto or thereabouts, both by sea and land, whatsoever we, by our letters patents, may grant, and as we or any of our noble progenitors have heretofore granted to any person or persons, bodies politic or corporate; and the said Walter Raleigh, his heirs and assigns, and all such as from time to time, by license of us, our heirs and successors, shall go or travel thither to inhabit or remain there to build and fortify, at the discretion of the said Walter Raleigh, his heirs and assigns, the Statutes or Act of Parliament made against fugitives, or against such as shall depart, remain or continue out of our Realm of England without license, or any other statute, act, law, or any ordinance whatsoever to the contrary in anywise notwithstanding. . . .

And further, that the said Walter Raleigh, his heirs and assigns and every of them, shall have, hold, occupy and enjoy to him, his heirs and assigns and every of them for ever, all the soil of all such lands, territories and countries, so to be discovered and possessed as aforesaid, and of all such cities, castles, towns, villages and places in the same, with the right, royalties, franchises and jurisdictions, as well marine as other within the said lands or countries, or the seas thereunto adjoining, to be had or used, with full power to dispose thereof, and of every part in fee simple or otherwise, according to the laws of England, as near as the same conveniently may be, at his and their will and pleasure, to any persons then being, or that shall remain within the allegiance of us, our heirs and successors, reserving always to us, our heirs and successors, for all services, duties and demands, the fifth part of all the ore of gold and silver, that from time to time, and at all times after such discovery, subduing and possessing, shall be there gotten and obtained: All which lands, countries and territories shall for ever be holden of the said Walter Raleigh, his heirs and assigns, of us, our heirs and successors, by homage, and by the said payment of the said fifth part, reserved only for all services.

And moreover, we do by these presents, for us, our heirs and successors, give and grant license to the said Walter Raleigh, his heirs and assigns, and every of them, that he and they, and every or any of them, shall and may from time to time, and at all times forever hereafter, for his or their defence, encounter and repulse, expel and resist as well by sea as by land, and by all other ways whatsoever, all and every such person and persons whatsoever, as without the especial liking and license of the said Walter Raleigh, and of his heirs and assigns, shall attempt to inhabit within the said countries, or any of them, or within the space of two hundred leagues near to the place or places within such countries as aforesaid (if they shall not be before planted or inhabited within the limits as aforesaid with the subjects of any Christian Prince being in amity with us) where the said Walter Raleigh, his heir or assigns, or any of them, or his or their or any of their associates or

* Poore's Charters, p. 1379.

company, shall, within six years (next ensuing) make their dwellings or abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy, either by sea or land, the said Walter Raleigh, his heirs or assigns, or any of them, or his or their, or any of his or their companies. . . . And for uniting in more perfect league and amity, of such countries, lands, and territories so to be possessed and inhabited as aforesaid with our Realms of England and Ireland, and the better encouragement of men to these enterprises, we do by these presents grant and declare that all such countries, so hereafter to be possessed and inhabited as is aforesaid, from thenceforth shall be of the allegiance of us, our heirs and successors. . . .

JOINT
APPENDIX.
—
SEC. II.
Charters.

The First Charter of Virginia—James I. to Sir Thomas Gates and others, 10 April, 1606.

10 Whereas our loving and well-disposed Subjects, Sir Thomas Gates, and Sir George Somers' Knights, Richard Hackluit, Clerk, Prebendary of Westminster, and Edward-Maria Wingfield, Thomas Hanham, and Raleigh Gilbert, Esqrs., William Parker, and George Popham, Gentlemen, and divers others of our loving Subjects, have been humble Suitors unto us, that We would vouchsafe unto them our Licence, to make Habitation, Plantation, and to deduce a colony of sundry of our People into that part of America commonly called VIRGINIA, and other parts and Territories in America, either appertaining unto us, or which are not now actually possessed by any Christian Prince or People, situate, lying, and being all along the Sea Coasts, between four and thirty Degrees of Northerly Latitude from the Equinoctial Line, and five and forty Degrees of the same Latitude, and in the main Land between the same four and thirty and five and forty Degrees, and the
20 Islands thereunto adjacent, or within one hundred Miles of the Coast thereof ;

And to that End, and for the more speedy Accomplishment of their said intended Plantation and Habitation there, are desirous to divide themselves into two several Colonies and Companies ; the one consisting of certain Knights, Gentlemen, Merchants, and other Adventurers, of our City of London and elsewhere, which are, and from time to time shall be, joined unto them, which do desire to begin their Plantation and Habitation in some fit and convenient Place, between four and thirty and one and forty Degrees of the said Latitude, alongst the Coasts of Virginia, and the Coasts of America aforesaid : And the other consisting of sundry Knights, Gentlemen, Merchants, and other Adventurers, of our Cities of Bristol and Exeter, and of our Town of Plimouth, and of
30 other Places, which do join themselves unto that Colony, which do desire to begin their Plantation and Habitation in some fit and convenient Place, between eight and thirty Degrees and five and forty Degrees, of the said Latitude, all alongst the said Coasts of Virginia and America, as that Coast lyeth :

We, greatly commending, and graciously accepting of, their Desires for the furtherance of so noble a Work, which may, by the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of Christian Religion to such people, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those parts, to human Civility, and to a settled and quiet Government : DO, by these our Letters Patents, graciously accept of and agree to, their humble and well-intended desires ;

40 And do therefore, for Us, our Heirs, and Successors, grant and agree that the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, and Edward-Maria Wingfield, Adventurers of and for our City of London, and all such others, as are, or shall be, joined unto them of that Colony, shall be called the first Colony ; And they shall and may begin their said first Plantation and Habitation, at any place upon the said coast of Virginia or America, where they shall think fit and convenient, between the said four and thirty and one and forty Degrees of the said Latitude ; And that they shall have all the Lands, Woods, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the said first seat of their Plantation and Habitation by the Space of fifty Miles of English Statute Measure, all along the said coast of Virginia and America, towards the West and Southwest, as the
50 Coast lyeth, with all the Islands within one hundred Miles directly over against the same Sea

Coast; And also all the Lands, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Woods, Waters, Marshes, Fishings, Commodities, and Hereditaments, whatsoever, from the said Place of their first Plantation and Habitation for the space of fifty like English Miles, all alongst the said coasts of Virginia and America, towards the East and Northeast, or toward the North, as the Coast lyeth, together with all the Islands within one hundred Miles, directly over against the said Sea Coast; And also all the Lands, Woods, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the same fifty Miles every way on the Sea Coast, directly into the main Land by the Space of one hundred like English Miles; And shall and may inhabit and remain there; and shall and may also build and fortify within any the same, for their better Safeguard and Defence, according to their best Discretion, and the Discretion of the Council of that Colony; And that no other of our Subjects shall be permitted, or suffered to plant or inhabit behind, or on the Backside of them, towards the main Land, without the Express License or Consent of the Council of that Colony, thereunto in Writing first had and obtained. 10

And we do likewise, for Us, our Heirs, Successors, by these Presents GRANT and agree, that the said Thomas Hanham, and Raleigh Gilbert, William Parker, and George Popham, and all others of the Town of Plimouth in the County of Devon, or elsewhere, which are, or shall be, joined unto them of that Colony, shall be called the second Colony; And that they shall and may begin their said Plantation and Seat of their first abode and Habitation, at any Place upon the said Coast of Virginia and America, where they shall think fit and convenient, between eight and thirty Degrees of the said Latitude, and five and forty Degrees of the same Latitude; And that they shall have all the Lands, Soils, Grounds, Havens, Ports, Rivers, Mines, Minerals, Woods, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the first seat of their Plantation and Habitation by the Space of fifty like English Miles, as is aforesaid, all alongst the said Coasts of Virginia and America, towards the West and Southwest, or towards the South, as the Coast lyeth, and all the Islands within one hundred Miles, directly over against the said Sea Coast; And also all the Lands, Soils, Grounds, Havens, Ports, Rivers, Mines, Minerals, Woods, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the said Place of their first Plantation and Habitation for the Space of fifty like Miles, all alongst the said Coast of Virginia and America, towards the East and Northeast, or towards the North, as the Coast lyeth, and all the Islands also within one hundred Miles directly over against the same Sea Coast; And also all the Lands, Soils, Grounds, Havens, Ports, Rivers, Woods, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the same fifty Miles every way on the Sea Coast, directly into the main Land, by the Space of one hundred like English Miles; And shall and may inhabit and remain there; and shall and may also build and fortify within any the same for their better Safeguard, according to their best Discretion, and the Discretion of the Council of that Colony; And that none of our Subjects shall be permitted, or suffered, to plant or inhabit behind, or on the back of them, towards the main Land, without express Licence of the Council of that Colony, in Writing thereunto first had and obtained. 30

Provided always, and our Will and Pleasure herein is, that the Plantation and Habitation of such of the said Colonies, as shall last plant themselves, as aforesaid, shall not be made within one hundred like English Miles of the other of them, that first began to make their Plantation, as aforesaid. 40

And finally, we do for Us, our Heirs, and Successors, GRANT and agree, to and with the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, Edward-Maria Wingfield, and all others of the said first colony, that We, our Heirs and Successors, upon Petition in that Behalf to be made, shall, by Letters Patent under the Great Seal of England, GIVE and GRANT, unto such Persons, their Heirs and Assigns, as the Council of that Colony, or the most part of them, shall, for that Purpose nominate and assign, all the Lands, Tenements, and Hereditaments, which shall be within the Precincts limited for that Colony, as is aforesaid, TO BE HOLDEN of Us, our heirs and Successors, as of our Manor at East-Greenwich, in the County of Kent, in free and common Socceage only, and not in Capite. 50

And do in like Manner, Grant and Agree, for Us, our Heirs and Successors, to and with the said Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, and all others of the said second Colony, That We, our Heirs, and successors, upon Petition in that behalf to be made, shall, by Letters-Patent, under the Great Seal of England, GIVE and GRANT, unto such Persons, their Heirs and Assigns, as the Council of that Colony, or the most Part of them, shall for that Purpose nominate and assign, all the Lands, Tenements, and Hereditaments, which shall be within the Precincts limited for that Colony as is aforesaid, TO BE HOLDEN of Us, our Heirs, and Successors, as of our Manor of East-Greenwich, in the County of Kent, in free and common Soccage only, and not in Capite.

JOINT
APPENDIX.
SEC. II.
Charters.

10

Second Charter of Virginia, 1609.

KING JAMES the First's Second Charter to the Treasurer and Company for Virginia, erecting them into a Corporation and Body-politic, and for the further enlargement and explanation of the privileges of the said Company and first Colony of Virginia. Dated May 23, 1609.

I. Whereas, at the humble suit and request of sundry of our loving and well-disposed subjects, intending to deduce a colony, and to make habitation and plantation of sundry of our people, in that part of America, commonly called Virginia, and other parts and territories in America, either appertaining unto Us, or which are not actually possessed of any Christian Prince or people, within certain bounds and regions, we have formerly, by our letters patents, bearing date the tenth day of April, in the fourth year of our reign of England, France, and Ireland, and of Scotland the nine-
20 and-thirtieth, granted to Sir Thomas Gates, Sir George Somers, and others, for the more speedy accomplishment of the said plantation and habitation, that they should divide themselves into two colonies, the one consisting of divers knights, gentlemen, merchants, and others, of our city of London, called the first colony; and the other consisting of divers knights, gentlemen, and others, of our cities of Bristol, Exeter, and town of Plymouth, and other places, called the second colony; and have yielded and granted many and sundry privileges and liberties to each colony, for their quiet settling and good government therein, as by the said letters patent more at large appeareth.

II. Now, forasmuch as divers and sundry of our loving subjects, as well adventurers as planters of the said first colony, which have already engaged themselves in furthering the business of the said colony and plantation, and do further intend, by the assistance of Almighty God, to
30 prosecute the same to a happy end, have of late been humble suitors unto Us, that (in respect to their great charges and the adventure of many of their lives, which they have hazarded in the said discovery and plantation of the said country), We would be pleased to grant them a further enlargement and explanation of the said grant, privileges, and liberties, and that such councillors, and other officers, may be appointed amongst them, to manage and direct their affairs, as are willing and ready to adventure with them, as also whose dwellings are not so far remote from the city of London, but that they may, at convenient times, be ready at hand, to give their advice and assistance upon all occasions requisite.

III. We, greatly affecting the effectual prosecution and happy success of the said plantation, and commending their good desires therein, for their further encouragement in accomplishing so
40 excellent a work, much pleasing to God, and profitable to our kingdom, do, of our especial grace, and certain knowledge, and mere motion, for Us, our heirs, and successors, give, grant, and confirm, to our trusty and well-beloved subjects, [here follow the names;] and to such, and so many, as they do, or shall hereafter, admit to be joined with them, in form hereafter in these presents expressed, whether they go in their persons, to be planters there in the said plantation, or whether they go not, but adventure their moneys, goods, or chattels; that they shall be one body or commonalty perpetual, and shall have perpetual succession, and one common seal, to serve for the said body or commonalty; and that they, and their successors shall be known, called, and incorporated by the name of The Treasurer and Company of Adventurers and Planters, of the City of London, for the first Colony in Virginia.

VI. And we do also, of our special grace, certain knowledge, and mere motion, give, grant, and confirm, unto the said treasurer and company, and their successors, under the reservations, limitations and declarations, hereafter expressed, all those lands, countries, and territories, situate, lying, and being, in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the sea coast, to the northward two hundred miles, and from the said Point of Cape Comfort, all along the sea-coast, to the southward two hundred miles, and all that space and circuit of land, lying from the sea-coast of the precinct aforesaid, up into the land, throughout from sea to sea, west and north-west; and also all the islands, lying within one hundred miles, along the coast of both seas of the precinct aforesaid, together with all the soils, grounds, havens, and ports, mines, as well royal mines of gold and silver, as other minerals, pearls, and precious stones, quarries, woods, rivers, waters, fishings, commodities, jurisdictions, royalties, privileges, franchises, and pre-eminences, within the said territories and the precincts thereof, whatsoever, and thereto and thereabouts, both by sea and land, being, or in any sort belonging or appertaining, and which we, by our letters patent, may or can grant, in as ample manner and sort, as we, or any of our noble progenitors, have heretofore granted to any company, body politic or corporate, or to any adventurer, or adventurers, undertaker, or undertakers, of any discoveries, plantations, or traffic, of, in or into any foreign parts whatsoever, and in as large and ample manner, as if the same were herein particularly mentioned and expressed: To have and to hold, possess and enjoy, all and singular the said lands, countries and territories, with all and singular other the premises, heretofore by these presents granted, or mentioned to be granted, to them, the said Treasurer and Company, their successors and assigns for ever; to the sole and proper use of them, the said Treasurer and Company, their successors and assigns for ever: To be holden of us, our heirs, and successors, as of our manor of East-Greenwich, in free and common soccage, and not *in capite*; Yielding and paying, therefore, to us, our heirs and successors, the fifth part only of all ore of gold and silver, that from time to time, and at all times hereafter, shall be there gotten, had, or obtained, for all manner of services.

*The Third Charter of Virginia—Additional Grant, James I., to the First or London Colony,
12th March, 1611-12.*

Whereas at the humble suit of divers and sundry our loving subjects, as well adventurers as planters of the first colony in Virginia, and for the propagation of Christian Religion, and reclaiming of people barbarous, to civility and humanity, we have, by our Letters-Patents, bearing date at Westminister, the three-and-twentieth day of May, in the seventh year of our reign of England, France, and Ireland, and the two-and-fortieth of Scotland, given and granted unto them that they and all such and so many of our loving subjects as should from time to time, for ever after, be joined with them as planters or adventurers in the said plantation, and their successors, for ever, should be one body politic, incorporated by the name of the treasurer and company of adventurers and planters of the City of London, for the first Colony in Virginia.

And whereas also for the greater good and benefit of the said company, and for the better furtherance, strengthening, and establishing of the said plantation, we did further give, grant and confirm, by our Letters Patents unto the said Company and their successors, for ever, all those lands, [etc.]

Now forasmuch as . . . they have been humble suitors unto us, that we would be pleased to grant unto them an enlargement of our said former Letters Patents, as well as for a more ample extent of their limits and territories into the seas adjoining to and upon the coast of Virginia, as also for some other matters and articles concerning the better government of the said company and colony, in which point our said former Letters Patents do not extend so far as time and experience hath found to be needful and convenient.

We therefore tendering the good and happy success of the said plantation, both in regard of the General Weal of human society, as in respect of the good of our own estate and kingdoms, and

being willing to give furtherance unto all good means that may advance the benefit of the said company, and which may secure the safety of our loving subjects planted in our said Colony, under the favor and protection of God almighty, and of our royal power and authority, have therefore of our especial grace, certain knowledge, and mere motion, given, granted, and confirmed, and for us, our heirs and successors, we do by these presents give, grant and confirm to the said treasurer and company of adventurers and planters of the City of London for the first Colony in Virginia, and to their heirs and successors for ever, all and singular those islands whatsoever situate and being in any part of the ocean seas bordering upon the coast of our said first Colony in Virginia, and being within three hundred leagues of any of the parts heretofore granted to the said treasurer
10 and company in our said former Letters Patents as aforesaid, and being within or between the one-and-fortieth and thirtieth degrees of northerly latitude. . . .

Provided always, that the said islands or any premises herein mentioned, or by these presents intended or meant to be granted, be not actually possessed or inhabited by any other Christian Prince or estate, nor be within the bounds, limits, or territories of the Northern Colony heretofore by us granted to be planted by divers of our loving subjects in the north parts of Virginia.

To have and to hold, possess and enjoy, all and singular the said Islands in the said ocean seas so lying and bordering upon the coast and coasts of the said territories of the said first Colony in Virginia, as aforesaid. With all and singular the said soils, lands, grounds, and all and singular other the premises heretofore by these presents granted or mentioned to be granted to them, the
20 said treasurer and company of adventurers and planters of the City of London for the first Colony in Virginia, and to their heirs, successors, and assigns, for ever, to the sole and proper use and behoof of them the said treasurer and company, and their heirs and successors and assigns, for ever.

To be holden of us, our heirs and successors, as of our manor of East Greenwich, in free and common soccage, and not in capite.

The Charter of New England, James I., to the Second or Plymouth Colony, 3rd November, 1620.

Whereas, upon the humble Petition of divers of our well disposed Subjects, that intended to make several Plantations in the Parts of America, between the Degress of thirty-four and ffourty-five; We, according to our princely Inclination, favoring much their worthy Disposition, in Hope
30 thereby to advance the in Largement of Christian Religion, to the Glory of God Almighty, as also by that Meanes to stretch out the Bounds of our Dominions, and to replenish those Deserts with people governed by Lawes and Magistrates, for the peaceable Commerce of all, that in time to come shall have occasion to traffique into those Territoryes, granted unto Sir Thomas Gates, Sir George Somers, Knights, Thomas Hamon, and Raleigh Gilbert, Esquires, and of their Associates, for the more speedy Accomplishments thereof, by our Letters-Patent, bearing Date the Tenth Day of April, in the Fourth Year of our Reign of England, France, and Ireland, and of Scotland the ffourtieth, free Liberty to divide themselves into two several Colonyes; the one called the first Colonye, to be undertaken and advanced by certain Knights, Gentlemen, and Merchants, in and about the Cyty of London; the other called the Second Collonye, to be undertaken and advanced by certaine Knights,
40 Gentlemen, and Merchants, and their associates, in and about our Cities of Bristol, Exon, and our Towne of Plymouth, and other Places, as in and by our said Letters-Patents, amongst other Things more at large it doth and may appeare.

And whereas, since that Time, upon the humble Petition of the said Adventurers and Planters of the said first Collonye, We have been graciously pleased to make them one distinct and entire Body by themselves, giving unto them their distinct Lymitts and Bounds, and have upon their like humble Request, granted unto them divers Liberties, Privileges, Enlargements, and Immunityes, as in and by our severall Letters-Patents it doth and may appeare.

Now forasmuch as we have been in like manner humbly petitioned unto by our trusty and well beloved Servant, Sir Ferdinando Gorges, Knight, Captain of our ffort and Island by Plymouth, and by certain the principal Knights and Gentlemen Adventurers of the said Second Colonye, and by divers other Persons of Quality, who now intend to be their Associates, divers of which have been at great and extraordinary Charge, and sustained many Losses in seeking and discovering a Place fitt and convenient to lay the Foundation of a hopeful Plantation, and have divers Years past by God's Assistance, and their own endeavors, taken actual Possession of the Continent hereafter mentioned, in our Name and to our Use, as Sovereign Lord thereof, and have settled already some of our People in Places agreeable to their Desires in those Parts, and in Confidence of prosperous success therein, by the continuance of God's Devine Blessing, and our royal permission, have resolved 10 in a more plentiful and effectual manner to prosecute the same, and to that purpose and intent have desired of us, for their better encouragement and satisfaction herein, and that they may avoid all confusion, questions, or differences between themselves, and those of the said first Colony, we would likewise be graciously pleased to make certain adventurers, intending to erect and establish fishery, trade and plantation, within the territories, precincts, and limits of the said second Colony, and their successors, one several distinct and entire body, and to grant unto them, such estate, liberties, priviliges, enlargements, and immunities there, as in these our Letters Patents hereafter particularly expressed and declared.

And forasmuch as We have been certainly given to understand by divers of our good Subjects, that have for these many Years past frequented those Coasts and Territoryes, between the 20 degrees of forty and forty-eight, that there is no other the subjects of any Christian King or State, by any authority from their Sovereigns, Lords or Princes, actually in possession of any of the said lands or precincts, whereby any right, claim, interest, or title, may, might, or ought by that means accrue, belong, or appertain unto them, or any of them.

And also for that we have been further given certainly to know, that within these late years there hath by God's visitation raigned a wonderful plague, together with many horrible slaughters and murders, committed amongst the savages and brutish people there, heretofore inhabiting, in a manner to the utter destruction, deuastation, depopulation of that whole territory, so that there is not left for many leagues together in a manner, any that do claim or challenge any kind of interests therein, nor any other Superior Lord or Sovereign to make claim thereunto, whereby we 30 in our judgment are persuaded and satisfied that the appointed time is come in which Almighty God in his great goodness and bounty towards us and our people, hath thought fit and determined, that those large and goodly territories, deserted as it were by their natural inhabitants, should be possessed and enjoyed by such of our subjects and people as heretofore have and hereafter shall by his mercy and favor, and by his powerful arm, be directed and conducted thither.

In Contemplacion and serious Consideracion whereof, Wee have thought it fitt according to our Kingly Duty, soe much as in Us lyeth, to seconde and followe God's sacred Will, rendering reverend Thanks to his Divine Majestie for his gracious favour in laying open and revealing the same unto us, before any other Christian Prince or State, by which Meanes without Offence, and us We trust to his Glory, We may with Boldness goe on to the settling of soe hopefull a Work, which tendeth 40 to the reducing and Conversion of such Sauages as remaine wandering in Desolasion and Distress, to Civil Societie and Christian Religion, to the Inlargement of our own Dominions, and the Advancement of the Fortunes of such of our good Subjects as shall willingly intresse themselves in the said Employment, to whom We cannot but give singular Commendations for their soe worthy Intention and Interprize; We therefore, of our especiall Grace, mere Motion, and certaine Knowledge, by the Advice of the Lords and others of our Privy Councell have for Us, our Heyrs and Successors, graunted, ordained, and established, and in and by these Presents, Do for Us, our Heyrs and Successors, grant, ordaine and establish, that all that Circuit, Continent, Precincts, and Limitts in America, lying and being in Breadth from Fourty Degrees of Northerly Latitude, from the Equinoctiall Line, to Fourty-eight Degrees of the said Northerly Latitude, and in length by all 50 the Breadth aforesaid throughout the Maine Land, from Sea to Sea, with all the Seas, Rivers,

Islands, Creekes, Inletts, Ports, and Havens within the Degrees, Precincts, and Limitts of the said Latitude and Longitude, shall be the Limitts and Bounds, and Precincts of the second Colony.

And to the End that the said Territoryes may forever hereafter be more particularly and certainly known and distinguished, our Will and Pleasure is, that the same shall from henceforth be nominated, termed, and called by the Name of New-England, in America; and by that Name of New-England in America, the said Circvit, Precinct, Limitt, Continent, Islands, and Places in America aforesaid, We do by these Presents, for Us, our Heyrs and Successors, name, call, erect, found and establish, and by that Name to have continuance for ever.

And for the better Plantacion, ruling, and governing of the said New-England in America,
10 We will, ordaine, constitute, assigne, limitt and appoint, and for Us, our Heyrs and Successors, We, by the Advice of the Lords and others of the said privie Councill, do by these presents ordaine, constitute, limitt, and appoint, that from henceforth, there shall be forever hereafter, in our Towne of Plymouth, in the County of Devon, one Body politicque and corporate, which shall have perpetuall succession, which shall consist of the Number of fourtie Persons, and no more, which shall be, and shall be called and knowne by the Name of the Council established at Plymouth, in the County of Devon, for the planting, ruling, ordering, and governing of New-England in America.

And Wee do further of our especiall Grace, certaine Knowledge, and meere Motion for Us, our Heirs and Successors for and in Respect of the Considerations aforesaid, and for divers other good
20 Considerations and Causes, us thereunto especially moving, and by the Advice of the Lords and Others of our said Privy Councill have absolutely given, granted, and confirmed, and do by these Presents absolutely give, grant, and confirm unto the said Councill, called the Councell established at Plymouth in the County of Devon for the planting, ruling, and governing of New-England in America, and unto their Successors for ever, all the aforesaid Lands and Grounds, Continent, Precinct, Place, Places and Territoryes, viz. that aforesaid part of America, lying, and being in Breadth from Fourty Degrees of Northerly Latitude from the Equinoctiall Line, to Fourty-eight Degrees of the said Northerly Latitude inclusively, and in Length of, and within all the Breadth aforesaid, throughout all the Maine Lands from Sea to Sea, together also, with the Firme Lands, Soyles, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines, and Mineralls, as well Royall
30 Mines of Gold and Silver, as other Mines and Mineralls, precious Stones, Quarries, and all, and singular other Comodities, Jurisdictions, Royalties, Priveliges, Franchises, and Preheminenes, both within the same Tract of Land upon the Maine, and also within the said Islands and Seas adjoining; Provided always, that the said Islands, or any of the Premises herein before mentioned, and by these Presents intended and meant to be granted, be not actually possessed or inhabited by any other Christian Prince or Estate, nor be within the Bounds, Limitts, or Territoryes, of that Southern Colony heretofore by us granted to be planted by diverse of our loving Subjects in the South Part, to have and to hold, possess and enjoy, all, and singular, the aforesaid Continent, Lands, Territoryes, Islands, Hereditaments and Precincts, Sea Waters, Fishings, with all, and all Manner their Comodities, Royalties, Liberties, Preheminenes, and Profitts, that shall arise from thence, with all and
40 singular, their Appertences, and every Part and Parcell thereof, and of them, to and unto the said Councell and their Successors and Assignes for ever, to the sole only and proper Use, Benefit, and Behooffe of them the said Council and their Successors and Assignes for ever, to be beholden of Us, our Heires, and Successors, as of our Manor of East-Greenwich, in our County of Kent, in free and common Soccage and not in Capite, nor by Knight's Service.

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*Charter of New Scotland, James I, to Sir William Alexander, 10 September, 1621.**

Know ye, that we have always been eager to embrace every opportunity to promote the honour and wealth of our Kingdom of Scotland, and think that no gain is easier or more safe than what is made by planting new colonies in foreign and uncultivated regions, where the means of

* *Sir William Alexander and American Colonization.* Prince Society, Boston, 1873.

living and food abound, especially, if these places were before without inhabitants, or were settled by infidels whose conversion to the Christian faith most highly concerns the glory of God.

We, therefore, from our sovereign anxiety to propagate the Christian faith, and to secure the wealth, prosperity and peace of the native subjects of our said Kingdom of Scotland, as other foreign princes in such cases already have done, with the advice and consent of our well-beloved cousin and counsellor, John, Earl of Mar, Lord Erskine and Gareoch, etc., our High Treasurer, Comptroller, Collector and Treasurer of our new revenues of this our Kingdom of Scotland, and of the other Lords, Commissioners of our same Kingdom, have given, granted and conveyed, and, by the tenor of our present charter, do give, grant and convey to the aforesaid Sir William Alexander, his heirs or assigns, hereditarily, all and single, the lands of the continent, and islands situated and lying in America, within the head or promontory, commonly called Cape of Sable, lying near the forty-third degree of north latitude, or thereabouts; from this cape stretching along the shores of the sea, westward to the roadstead of St. Mary, commonly called St. Mary's Bay, and thence northward by a straight line, crossing the entrance or mouth of that great roadstead which runs towards the eastern part of the land between the countries of the Suriqui and Etechemini, commonly called Suriquois and Etechemines, to the river generally known by the name of St. Croix, and to the remotest springs, or source, from the western side of the Seine, which empty into the first mentioned river; thence by an imaginary straight line which is conceived to extend through the land, or run northward to the nearest bay, river or stream emptying into the great river of Canada; and going from that eastward along the low shores of the same river of Canada, to the river, harbour, port or shore commonly known and called by the name of Gathepe or Gaspie, and thence south south-east to the isles called Bacalaos, or Cape Breton, leaving the said isles on the right and the mouth of the said great river of Canada, or large bay, and the territory of Newfoundland with the islands belonging to the same lands, on the left; thence to the headland or point of Cape Breton aforesaid, lying near latitude 45°, or thereabouts; and from the same point of Cape Breton toward the south and west to the above-mentioned Cape Sable, where the boundary began; including and containing within the said coasts and their circumference, from sea to sea, all lands of the continent with the rivers, falls, bays, shores, islands, or seas, lying near or within six leagues on any side of the same, on the west, north, or east sides of the same coasts and bounds; and on the south south-east (where Cape Breton lies) and on the south side of the same (where Cape Sable is) all seas and islands southward within forty leagues of said sea-shore, thereby including the large island commonly called Isle de Sable, or Sablon, lying towards Carban, in common speech, south south-east, about thirty leagues from the said Cape Breton seaward, and being in latitude 44°, or thereabouts.

The above-described lands shall in all future time bear the name of New Scotland in America, and also the aforesaid Sir William shall divide it into parts or portions as seemeth best to him, and shall give names to the same at his pleasure.

[*The Novodamus Charter of New Scotland, Charles I, to Sir William Alexander, 12th July, 1625, contains clauses identical with those above printed from the Charter of 10th September, 1621.*]

*Charter of the Country and Lordship of Canada, Charles I, to Sir William Alexander, 2nd February, 1628-9.**

Know ye, that we, being perfectly mindful by what engagement our faithful and well-beloved Councillor, Sir William Alexander, of Menstrie, Knight, our Principal Secretary for our kingdom of Scotland, and Hereditary Lieutenant of our country and dominion of New Scotland, in America, has sustained great charges and expenses in his various undertakings in the providing of ships, engines of war, ordnance and munitions, in the conducting of colonies; as also, in exploring, settling and taking possession of the said country; and whereby he and our other subjects who amongst

* *Sir William Alexander and American Colonization*, Prince Society, Boston, 1873.

with him were to find a settlement in the said country might be assisted by the further diffusion of the Christian religion in those parts of our dominions, its propagation therein, and the expected revealing and discovery of a way or passage to those seas which lie upon America on the west, commonly called the South Sea, from which the head or source of that great River or Gulf of Canada, or some river flowing into it is deemed to be not far distant. . . .

We . . . have given, granted and disposed, and by our present charter, give, grant and dispose to the foresaid Sir William Alexander, his heirs and assignees, heritably, forever, all and sundry islands within the Gulf of Canada, lying between New Scotland and Newfoundland, at the mouth and entrance of the great river Canada aforesaid, where it falls and enters into the said Gulf
10 (including therein the great island Anticosti). Also, we have given, granted, and disposed, and, by our present charter, give, grant, and dispose to the above-named Sir William Alexander all and sundry islands lying within the said river Canada, from the said mouth and entrance up to the head, fountain, and source thereof, wheresoever it be, or the lake whence it flows (which is thought to be towards the Gulf of California, called by some the Vermillion Sea), or within any other rivers flowing into the said river Canada, or in whatsoever lakes, waters, or arms of the sea, through which either the said great river Canada, or any of the said other rivers pass, or in which they discharge themselves.

And further, we have given and granted, and by our present charter give and grant to the foresaid Sir William, and his foresaids, fifty leagues of bounds on both sides of the foresaid river
20 Canada, from the said mouth and entrance to the said head, fountain, and source thereof; also on both sides of the said other rivers flowing into the same; as also, on both sides of the said lakes, arms of the sea, or waters, through which any of the said rivers have their course, or in which they terminate; and in like manner we have given and granted, and by our present charter give and grant, to the foresaid Sir William Alexander, and his foresaids, all and whole the bounds and passages, as well in waters as on land, from the foresaid head, fountain, and source of [the river] Canada, wheresoever it is, or from whatsoever lake it flows, down to the foresaid Gulf of California, whatsoever the distance shall be found to be, with fifty leagues altogether on both sides of the said passage, before the said head of (the river) Canada, and Gulf of California, and likewise all and
30 sundry islands lying within the said Gulf of California; as also all and whole the lands and bounds adjacent to the said gulf on the west and south whether they be found a part of the continent or mainland, or an island (as it is thought they are) which is commonly called and distinguished by the name of California.

Moreover, we have given and granted, and by our present charter give and grant, and for us and our successors, with advice and consent foresaid, perpetually confirm to the foresaid Sir William Alexander, his heirs and assignees whatsoever, heritably, all and sundry other lands, bounds, lakes, rivers, arms of the sea, woods, forests, and others that shall be found, conquered, or discovered, at any future time, by him or his successors, their partners, associates, or others in their name, or having power from them, upon both sides of the whole bounds and passages foresaid, from the mouth and entrance of the said river Canada, where it discharges itself into the said Gulf of Canada,
40 to the said Gulf of California, or the islands in the seas thereto adjacent, which are not yet really and actually possessed by others, our subjects, or the subjects of any other Christian Prince, or constituted Orders in alliance and friendship with us, with full and absolute power to him the said Sir William Alexander, and his foresaids (and to no others), their stewards, servants, and others in their name, of establishing colonies and engaging in commerce, in the before-named places or bounds, or any part of them particularly designed, and of expelling or debarring all others from the same; also, of leasing out proportions of the land thereof, to whatsoever person or persons shall seem to him fit, and on the same terms, conditions, restrictions, and observances, within all the before-named bounds, as he can do in New Scotland, by whatsoever Charters or Patents granted to him by our late dearest father or by ourselves. . . .

*The Charter of Massachusetts Bay, Charles I., to Sir Henry Rosewell and others, Assignees
of the Council of Plymouth, 4th March, 1629.*

WHEREAS, our most deare and Royall Father, King James, of blessed Memory, by his Highnes Letters-patents bearing Date at Westminister the third Day of November, in the eighteenth Yeare of his Raigne, hath given and graunted vnto the Councell established at Plymouth, in the County of Devon, for the planting, ruling, ordering, and governing of Newe England in America, and to their Successors and Assignes for ever, all that Parte of America, lyeing and being in Breadth, from Forty Degrees of Northerly Latitude from the Equinoctiall Lyne, to forty eight Degrees of the saide Northerly Latitude inclusively, and in Length, of and within all the Breadth aforesaid, throughout the Maine Landes from Sea to Sea. 10

AND WHEREAS, the saide Councell established at Plymouth, in the County of Devon, for the plantinge, ruling, ordering, and governing of Newe England in America, have by their Deede, indented vnder their Comon Seale, bearing Date the nyneteenth Day of March last past, in the third Yeare of our Raigne, given, graunted, bargained, sould, enfeoffed, aliened, and confirmed to Sir Henry Rosewell, Sir John Young, Knightes, Thomas Southcott, John Humphrey, John Endecott, and Symon Whetcombe, their Heirs and Assignes, and their Associats for ever, all that parte of Newe England in America aforesaid, which lyes and extendes betweene a greate River there comonlie called Monomack alias Merriemack, and a certen other River there, called Charles River, being in the Bottome of a certayne Bay there, comonlie called Massachusetts, alias Mattachusetts, alias Massatusetts Bay, and also all and singuler those Landes and Hereditaments whatsoever, 20 lyeing within the Space of three English Myles on the South Parte of the said Charles River, or of any or everie Parte thereof; and also, all and singuler the Landes and Hereditaments whatsoever, lyeing and being within the Space of three English Myles to the Southward of the Southermost Parte of the saide Bay called Massachusetts alias Mattachusetts, alias Massatusetts Bay; and also, all those Landes and Hereditaments whatsoever, which lye, and be within the space of three English Myles to the Northward of the said River called Monomack, alias Merrymack, or to the Northward of any and every Parte thereof, and all Landes and Hereditaments whatsoever, lyeing within the Lymitts aforesaide, North and South in Latitude and bredth, and in Length and Longitude, of and within all the Breadth aforesaide, throughout the Mayne Landes there, from the Atlantick and 30 Westernne Sea and Ocean on the East Parte, to the South Sea on the West Parte; and all Landes and Groundes, Place and Places, Soyles, Woodes and Wood Groundes, Havens, Portes, Rivers, Waters, Fishings, and Hereditaments whatsoever, lyeing within the said Boundes and Lymytts, and everie Parte and Parcell thereof; and also, all Islandes lyeing in America aforesyde, in the saide Seas or either of them on the Westernne or Eastern Coastes or Partes of the saide Tractes of Lande, by the saide Indenture mencoed to be given, graunted, bargained, sould, enfeoffed, aliened, and confirmed, or any of them.

NOWE Knowe Yee, that Wee, at the humble Suite and Peticon of the saide Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, and of others whome they have associated vnto them, HAVE, for divers good Causes and consideracons, vs moveing, graunted and confirmed, and by theis Presents of our especiall Grace, certen Knowledge, 40 and meere Mocon, doe graunt and confirm vnto the saide [naming them], their Heirs and Assignes, all the saide Parte of Newe England in America, lyeing and extending betweene the Boundes and Lymytts in the said recited Indenture expressed, [etc.]

AND FURTHER, knowe yee, that of our more especiall Grace, certen Knowledge, and meere mocon, Wee have given and graunted, and by theis Presents, doe for Vs, our Heires and Successors, give and graunte vnto the saide [naming them], their Heirs and Assignes, all that Parte of Newe England in America, [the above description repeated].

PROVIDED alwayes, That yf the said Landes, Islandes, or any other the Premisses hereinbefore mencoed, and by theis presents, intended and meant to be graunted, were at the tyme of the graunting of the saide former Letters-patents, dated the Third Day of November, in the Eighteenth 50

Yeare of our said deare Father's Raigne aforesaide, actuallie possessed or inhabited by any other Christian Prince or State, or were within the Boundes, Lymytts or Territories of that Southerne Colony, then before graunted by our said late Father, to be planted by divers of his loving Subjects in the south partes of America, That then this present Graunt shall not extend to any such partes or parcells thereof, soe formerly inhabited, or lyeing within the Boundes of the Southerne Plantacon as aforesaide, but as to those partes or parcells soe possessed or inhabited by such Christian Prince or State, or being within the Bounders aforesaide shall be vtterlie voyd, theis presents or any Thing therein conteyned to the contrarie notwithstanding.

10 To HAVE and hould, possesse and enjoy the saide partes of New England in America, which lye, extend, and are abutted as aforesaide, and every parte and parcell thereof; and all the Islandes, Rivers, Portes, Havens, Waters, Fishings, Fishes, Mynes, Myneralls, Jurisdiccons, Franchises, Royalties, Liberties, Priviledges, Comodities, and Premisses whatsoever, with the Appurtenances, vnto the said [naming them], their Heirs and Assignes forever, to the onlie proper and absolute Vse and Behoufe of the said, [etc.]

To BE HOLDEN of Vs, our Heirs and Successors, as of our Manor or Eastgreenwich in our Countie of Kent, within our Realme of England, in free and comon Soccage, and not in Capite, nor by Knights Service. . . .

Charter of Maryland, Charles the First to Cæcilius Lord Baltimore, 28th June, 1632.

20 Whereas our right trusty and well-beloved subject Cæcilius Calvert, baron of Baltimore, in our kingdom of Ireland, son and heir of Sir George Calvert, knight, late baron of Baltimore, in the same kingdom of Ireland, pursuing his father's intentions, being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominion, hath humbly besought leave of us, by his industry and charge, to transport an ample colony of the English nation unto a certain country hereinafter described, in the parts of America not yet cultivated and planted, though in some parts thereof inhabited by certain barbarous people, having no knowledge of Almighty God; and hath humbly besought our royal Majesty to give, grant, and confirm the said country, with certain privileges and jurisdictions, requisite for the said government and state of his colony and country aforesaid, to him and his heirs for ever.

30 Know ye therefore, That we, favouring the pious and noble purpose of the said barons of Baltimore, of our special grace, certain knowledge, and mere motion, have given, granted, and confirmed, and by this our present charter, for us, our heirs and successors, do give, grant, and confirm unto the said Cæcilius, now Baron of Baltimore, his heirs and assigns, all that part of a peninsula, lying in the parts of America, between the ocean on the east, and the Bay of Chesapeak on the west, and divided from the other part thereof by a right line drawn from the promontory, or cape of land, called Watkin's Point (situate in the aforesaid bay, near the river of Wighco) on the west, unto the main ocean on the east; and between that bound on the south unto that part of Delaware Bay on the north, which lieth under the fortieth degree of northerly latitude from the equinoctial, where New England ends; and all that tract of land between the bounds aforesaid; that is to say, passing from the aforesaid unto the aforesaid bay called Delaware Bay, in a right line by the degree
40 aforesaid, unto the true meridian of the first fountain of the river Potowmack, and from thence tending toward the south unto the further bank of the aforesaid river, and following the west and south sides thereof unto a certain place called Cinquack, situate near the mouth of the said river, where it falls into the bay of Chesapeak, and from thence by a straight line unto the aforesaid promontory and place called Watkin's Point (so that all that tract of land divided by the line aforesaid, drawn between the main ocean and Watkin's Point, unto the promontory called Cape Charles, and all its appurtenances, do remain entirely, except to us, our heirs and successors, for ever).

We do also grant and confirm unto the said Lord Baltimore, his heirs and assigns, all islands and islets within the limits aforesaid, and all and singular the islands and islets which are or shall be in the ocean, within ten leagues from the eastern shore of the said country towards the east, with all and singular ports, harbours, bays, rivers and inlets, belonging unto the country and islands aforesaid; and all the soil, lands, fields, woods, mountains, fens, lakes, rivers, bays, and inlets, situate or being within the bounds and limits aforesaid, [etc.]

And him the said now Baron Baltimore, his heirs and assigns, we do by these presents for us, our heirs and successors, make, create, and constitute the true and absolute lords and proprietaries of the said country aforesaid, and of all other the premises, (except before excepted) saving always the faith and allegiance, and sovereign dominion due unto us, our heirs and successors. To have, 10 hold, possess, and enjoy the said country, isles, islets, and other the premises, unto the said now Lord Baltimore, his heirs and assigns, to the sole and proper use and behoof of him the said now Lord Baltimore, his heirs and assigns, for ever.

To be holden of us, our heirs and successors, Kings of England, as of our castle of Windsor, in our county of Berks, in free and common soccage, by fealty only, for all services, and not *in capite*, or by knight's service; yielding and paying therefor to us, our heirs and successors, two Indian arrows of those parts, to be delivered at our said castle of Windsor, every year the Tuesday in Easter week, and also the fifth part of all gold and silver ore, within the limits aforesaid, which shall, from time to time, happen to be found.

Now, that the said country, thus by us granted and described, may be eminent above all other 20 parts of the said territory, and dignified with large titles, Know ye, that we, of our further grace, certain knowledge, and mere motion, have thought fit to erect the same country and islands into a province; as out of the fulness of our royal power and prerogative, we do for us, our heirs and successors, erect and incorporate them into a province, and do call it Maryland, and so from henceforth we will have it called.

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[Memorandum respecting other British Charters.]

Besides the Charters from which the foregoing extracts have been taken, the following subsequent charters, contain grants of soil of different portions of American territory, saving, like the others, the possessory rights of other Christian States or of British subjects under former grants, but without specific reference to any claim of the Indians; that is to say:— 30

1633, Sept. 23—Commission and grant, Charles I. to Thomas Young.

1634, June 21—Grant of New Albion, Charles I. to Sir E. Plowden.

1639, Apr. 3—Grant of Maine, Charles I. to Sir Ferdinando Gorges.

1663, Mar. 24—Charter of Carolina, Charles II. to the Earl of Clarendon and others.

1664, Mar. 12—First Grant, Charles II. to the Duke of York.

1670, May 2—Charter of the Hudson's Bay Co.

1674, June 29—Second Grant, Charles II. to the Duke of York.

1681, Feb. 28—
1682, Mar. 4— } Charter of Pennsylvania, Charles II. to William Penn.

1691, Oct. 7—Second Charter of Massachusetts Bay.

1732, June 9—Charter of Georgia, granted by George II. 40

1849, Jan. 30.—Grant of Vancouver's Island (set out under British Columbia, *post.*)

As the Charters of Connecticut and of Rhode Island and Providence Plantations each contain special reference to the Indians, the clauses are set out as follows]:—

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*Charter of Charles II. to the Colony of Connecticut, 23rd April, 1662.*JOINT
APPENDIX.
SEC. II.
Charters.

Whereas by the several Navigations, Discoveries, and Successful Plantations of divers of Our loving Subjects of this Our Realm of England, several Lands, Islands, Places, Colonies, and Plantations have been obtained and settled in that Part of the Continent of America called New-England, and thereby the Trade and Commerce there, hath been of late Years much increased: And whereas We have been informed by the humble Petition of our Trusty and Well beloved John Winthrop, John Mason, Samuel Wyllys, Henry Clarke, Matthew Allyn, John Tapping, Nathan Gold, Richard Treat, Richard Lord, Henry Wolcott, John Talcott, Daniel Clarke, John Ogden, Thomas Wells, Obadiah Bruen, John Clarke, Anthony Hawkins, John Deming, and Matthew Cam-
10 field, being Persons principally interested in Our Colony or Plantation of Connecticut, in New England, that the same Colony, or the greatest part thereof, was Purchased and obtained for great and valuable Considerations, and some other Part thereof gained by Conquest, and with much difficulty, and at the only Endeavors, Expence, and Charges of them and their Associates, and those under whom they Claim, Subdued, and Improved, and thereby become a considerable Enlargement and Addition of Our Dominions and Interest there.

Now KNOW YE, That in Consideration thereof, and in Regard the said Colony is remote from other the English Plantations in the Places aforesaid, and to the End the Affairs and Business which shall from Time to Time happen or arise concerning the same, may be duly Ordered and Managed, we have thought fit, and at the humble Petition of the Persons aforesaid, and are graciously
20 Pleased to create and make them a Body Politick and Corporate, with the Powers and Privileges hereinafter mentioned; and accordingly Our Will and Pleasure is, and of our especial Grace, certain Knowledge, and meer Motion, We have ordained, constituted and declared, and by these Presents, for Us, Our Heirs and Successors, Do ordain, constitute and declare, that they the said [naming them], and all such others as now are, or hereafter shall be admitted and made Free of the Company and Society of Our Colony of Connecticut, in America, shall from Time to Time, and for ever hereafter, be One Body Corporate and Politick, in Fact and Name, by the Name of, Governor and Company of the English Colony of Connecticut in New England, in America [etc].

And We do further of especial Grace, certain Knowledge, and meer Motion, give, and grant unto the said Governor and Company of the English Colony of Connecticut, in New England, in
30 America, and their Successors, That it shall and may be lawful to and for the Governor, or Deputy Governor, and such of the Assistants of the said Company for the Time being as shall be assembled in any of the General Courts aforesaid, or in any Courts to be especially summoned or assembled for that Purpose, or the greater part of them, whereof the Governor, or Deputy-Governor, and Six of the Assistants to be always Seven, to erect and make such Juridicatories, for the . . . directing, ruling, and disposing of all other Matters and things, whereby Our said People Inhabitants there, may be so religiously, peaceably and civilly governed, as their good Life and orderly Conversation may win and invite the Natives of the Country to the Knowledge and Obedience of the only true GOD, and the Saviour of Mankind, and the Christian Faith, which in Our Royal Intentions, and the adventurers free Possession, is the only and principal End of this Plantation;
40 willing, commanding and requiring, and by these Presents for Us, Our Heirs and Successors, ordaining and appointing, that all such Law, Statutes and Ordinances, Instructions, Impositions and Directions as shall be so made by the Governor, Deputy-Governor and Assistants as aforesaid, and published in Writing under their Common Seal, shall carefully and duly be observed, kept, performed, and put in Execution, according to the true Intent and Meaning of the same, and these Our Letters Patents, or the Duplicate, or Exemplification thereof, shall be to all and every such Officers, Superiors and Inferiors from Time to Time, for the putting of the same Orders, Laws, Statutes, Ordinances, Instructions, and Directions in due Execution, against Us, Our Heirs, and Successors, a sufficient Warrant and Discharge. . . .

And Know Ye further, That We, of Our abundant Grace, certain Knowledge, and mere Motion
50 have given, granted, and confirmed and by these Presents for Us, our Heirs and Successors,

do give, grant, and confirm unto the said Governor and Company, and their Successors, all that Part of Our Dominions in New England in America, bounded on the East by Narraganset River, commonly called Narraganset Bay, where the said River falleth into the Sea; and on the North by the Line of the Massachusetts Plantation: and on the South by the Sea; and in Longitude as the Line of the Massachusetts Colony, running from East to West, That is to say, From the said Narraganset Bay on the East, to the South Sea on the West Part, with the Islands thereunto adjoining, together with all firm Lands, Soils, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines, Minerals, precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Privileges, Franchises, Preheminences, and Hereditaments whatsoever, within the said Tract, Bounds, Lands, and Islands aforesaid, or to them or any of them belonging. 10

To have and hold the same unto the said Governor and Company, their Successors and Assigns for ever, upon Trust, and for the Use and Benefit of themselves and their Associates, Freemen of the said Colony, their Heirs and Assigns, to be holden of Us, Our Heirs and Successors, as of our Manor of East Greenwich, in free and common soccage, and not in capite, nor by Knight's Service.

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Charter of Charles II., to the Colony of Rhode Island and Providence Plantations, 8th July, 1663.

Whereas wee have been informed, by the humble petition of our trustie and well beloved subject, John Clarke, on the behalf of Benjamin Arnold, William Brenton, William Codington, Nicholas Easton, William Boulston, John Porter, John Smith, Samuell Gorton, John Weeks, Roger Williams, Thomas Olnie, Gregoire Dexter, John Cogeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, Samuell Wildbore, William Ffield, James Barker, Richard Tew, Thomas 20 Harris, and William Dyre, and the rest of the purchasers and free inhabitants of our island, called Rhode Island, and the rest of the colonie of Providence Plantations, in the Narragansett Bay, in New England, in America, that they, pursueing, with peaceable and loyall mindes, their sober, serious, and religious intentions, of goodlie edifieing themselves, and one another, in the holie Christian ffaith and worshipping as they were perswaded; together with the gaineing over and conversione of the poore ignorant Indian natives, in those partes of America, to the sincere professione and obedience of the same ffaith and worship, did, not onlie by the consent and good encouragement of our royall progenitors, transport themselves out of this kingdome of England into America, but alsoe, since their arrivall there, after their first settlement amongst other our subjects in those 30 parts, ffor the avoidering of discorde, and those manie evils which were likely to ensue upon some of those oure subjects not beinge able to beare, in these remote partes, their different apprehensiones in religious concernements, and in pursueance of the afforesayd ends, did once againe leave their desireable statienes and habitationes, and with excessive labor and travell, hazard and charge, did transplant themselves into the midst of the Indian natives, who, as wee are informed, are the most potent princes and people of all that country; where, by the good Providence of God, from whome the Plantationes have taken their name, upon their labor and industrie, they have not onlie byn preserved to admiration, but have increased and prospered, and are seized and possessed, by purchase and consent of the said natives, to their ffull content, of such lands, islands, rivers, harbors, and roades, as are verie convenient, both for plantationes and alsoe for buildinge, of shippes, suplye of pype-staves, and other merchandize; and which lyes verie commodious, in 40 manie respects, for commerce, and to accommodate oure southern plantationes, and may much advance the trade of this oure realme, and greatlie enlarge the territories thereof; they haveinge, by neare neighborhoode to and friendlie societie with the greate bodie of the Narragansett Indians, given them encouragement. of their owne accorde, to subject themselves, their people and landes, unto us; whereby, as is hoped, there may, in due tyme, by the blessing of God upon their endeavors, bee layd a sure ffoundation of happiness to all America. . . .

And accordingly our will and pleasure is, and of our especiall grace, certaine knowledge, and meere motion we have ordeyned, constituted and declared, and by these presents, for us, our heirs and successors, doe ordeyne, constitute and declare, That they, the sayd [here follow the names],

and all such others as now are, or hereafter shall bee admitted and made free of the company and societie of our collonie of the Providence Plantations, in the Narragansett Bay, in New England, shall bee, from tyme to tyme, and forever hereafter, a bodie corporate and politique, in ffact and name, by the name of the Governor and Company of the English Colony of Rhode Island and Providence Plantations in New England, in America; and that, by the same name, they and their successors shall and may have perpetuall succession, etc.

And further, wee doe, of our especiall grace, certayne knowledge, and meere motion, give and graunt unto the sayd Governour and Company of the English Colonie of Rhode Island and Providence Plantations, in New England in America, and their successours, that the Governour, or, in his absence, or, by his permission, the Deputy-Governour of the sayd Company, for the tyme beinge, the Assistants, and such of the ffreemen of the sayd Company as shall bee soe as aforesayd elected or deputed, or soe many of them as shall be present att such meetinge or assemblye, as afforesayde, shall bee called the Generall Assemblye; and that they, or the greatest parte of them present, whereof the Governour or Deputy-Governour, and sixe of the Assistants, at least to be seven, shall have, and have hereby given and graunted unto them, ffull power authority, ffrom tyme to tyme, and at all tymes hereafter, . . . to direct, rule, order and dispose of, all other matters and things, and particularly that which relates to the makinge of purchascs of the native Indians, as to them shall seeme meete; whereby oure sayd people and inhabitants, in the sayd Plantationes, may be soe religiously, peaceably and civilly governed as, that, by their good life and orderlie conversatione, they may win and invite the native Indians of the countrie to the knowledge and obedience of the onlie true God, and Saviour of mankind. . . .

And wee doe ffurther, for vs, oure heres and successours, give and graunt vnto the sayd Governour and Company, and their successors, by these presents, that itt shall and may bee lawfull to and for the said Governour, or in his absence, the Deputy-Governour, and majour parte of the sayd Assistants for the tyme being, att any tyme when the sayd Generall Assembly is not sitting, to nominate, apoynt and constitute, such and soe many commanders, governours, and military officers, as to them shall seeme requisite, for the leading, conductinge and trayneing vpp the inhabitants of the sayd Plantations in martiall affaires, and for the defence and safeguard of the sayd Plantations; and that it shall and may bee lawful to and for all and every such commander, governour, and military officer, that shall be soe as aforesayd, or by the Governour, or, in his absence, the Deputy-Governour, and six of the said Assistants, and majoure parte of the ffreemen of the sayd Company present att any general General Assemblies, nominated, apoynted and constituted accordinge to the tenor of his and their respective commissions and directions to assemble, exercise in arms, martiall array, and putt in warlyke posture, the inhabitants of the sayd colonie, ffor their speciall defence and safety; and to lead and conduct the sayd inhabitants and to encounter, expulse, expell and resist, by force of armes, as well by see as by lande; and also to kill, slay, and destroy, by all fitting ways, enterprizes and meanes, whatsoever, all and every such person or persons as shall, att any time hereafter, attempt or enterprize the destruction, invasion, detriment or annoyance of the sayd inhabitants or Plantations; and to vse and exercise the lawe martiall in such cases only as occasion shall necessarily require: and to take and surprise, by all wayes and meanes whatsoever, and every such person and persons, with their shipp or shippes, armor, amunition or other goods of such persons, as shall, in hostile manner, invade or attempt the defeating of the sayd Plantations, or the hurt of the sayd Company and inhabitants; and vpon just causes, to invade and destroy the native Indians, or other enemies of the sayd Collony.

Neverthesse, our will and pleasure is, and wee doe hereby declare to the rest of oure Colonies in New England, that itt shall nott bee laweful ffor this our sayd Collony of Rhode-Island and Providence Plantations, in America, in New-England to invade the natives inhabiting within the boundes and limitts of their said Colonies without the knowledge and consent of the said other Colonies.

And itt is hereby declared, that itt shall nott bee laweful to or ffor the rest of the Colonies to invade or molest the native Indians, or any other inhabitants, inhabiting within the bounds and

lymits hereafter mentioned (they having subjected themselves vnto vs, and being by vs taken into our speciall protection), without the knowledge and consent of the Governour and Company of our Collony of Rhode Island and Providence Plantations.

And further, know ye, thatt wee, of our more abundant grace, certain knowledge and mere motion, have given, graunted and confirmed, and by these presents, for vs, our heires and successours, doe, give, graunt and confirm, vnto the sayd Governor and Company, and their successours, all that parte of our dominiones in New-England, in America, contenneing the Nahantick and Nanhyganset Bay, and cuntryes and parts adjacent, bounded on the west or westerly to the middle or channel of a river there, commonly called and known by the name of the Pawcatuck, *alias* Pawcawtuck river, and soe along the sayd river, as the greater or middle streame thereof reaches or lies vpp into the north cuntrye northward, unto the head thereof, and from thence, by a streight lyne drawn due north, until it meete with the south lyne of the Massachusetts Collonie; and on the north, or northerly, by the aforesayd south or southerly lyne of the Massachusetts Colony or Plantation, and extending towards the east, or eastwardly, three English miles to the east and north-east of the most eastern and north-eastern parts of the aforesaid Narragansett Bay. as the sayd land lyeth or extendeth itself from the ocean on the south, or southwardly, vnto the mouth of the river which runneth towards the town of Providence, and from thence along the eastwardly side or banke of the said river (higher called by the name of Secunk river), vp to the ffalls called Patuckett ffalls, being the most westwardly lyne of Plymouth Colony, and soe from the said ffalls, in a streight lyne, due north, until itt meete with the aforesaid line of the Massachusetts Collony; and bounded on the south by the ocean, and, in particular, the lands belonging to the townes of Providence, Pawtuxet, Warwicke, Misquammacok, *alias* Pawtcatuck, and the rest vpon the maine land in the tract aforesayd, together with Rhode-Island, Blocke-Island, and all the rest of the islands and banks in the Narragansett Bay, and bordering upon the coast of the tract aforesaid (Fifsher's Island only excepted), together with all firme lands, soyles, grounds, havens, ports, rivers, waters, ffishing grounds, mines royall, and all other mynes, minerals, precious stones, quarries, woods, wood-grounds, rocks, slates, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, preheminences and hereditaments, whatsoever, within the sayd tract, bounds, landes, and islands, aforesayd, or to them, or any of them belonging, or in any wise appertaining: to have and to hold the same, vnto the sayd Governour and Company, and their successours, forever, vpon trust, for the vse and benefitt of themselves and their associates, ffreemen of the sayd Collony, their heires and assignes, to be holden of vs, our heires and successours, as of the Manor of East-Greenwich, in our county of Kent, in free and common soccage, and not in capite, nor by knight service; yeilding and paying therefor, to vs, our heires and successors, only the ffifth part of all the oare of gold and silver which, from tyme to tyme, and at all tymes hereafter, shall bee there gotten, had or obtained, in lieu and satisfaction of all services, duties, ffynes, forfeitures, made or to be made, claimes and demands whatsoever, to be to vs, our heires or successours, therefor or thereout rendered, made or paid; any graunt, or clause in a late graunt, to the Governour and Company of Connecticutt Colony, in America, to the contrary thereof in any wise notwithstanding; the aforesaid Pawcatuck river having byn yielded, after much debate, for the fixed and certain boundes betweene these our sayd Colonies, by the agents thereof; whoe have also agreed, that the said Pawcatuck river shall bee alsoe called *alias* Norrogansett or Narroganset river; and, to prevent future disputes, that otherwise might arise thereby, forever hereafter shall bee construed, deemed and taken to bee the Narragansett river in our late grant to Connecticut Colony mentioned as the easterly bounds of that Colony.

III.

Imperial Correspondence and Documents.

JOINT
APPENDIX.SEC. III.
*Imperial
Correspondence and
Documents.**Articles of Capitulation of Montreal, 1760.*

Article 40.—The Savages or Indian Allies of His Most Christian Majesty shall be maintained in the lands they inhabit, if they choose to reside there; they shall not be molested on any pretence whatsoever, for having carried arms and served His Most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their missionaries.

*Royal Instructions to the Governors of certain of the American Colonies, December, 1761.**

10 Draft of an Instruction for the Governors of Nova Scotia, New Hampshire, New York, Virginia, North Carolina, South Carolina, and Georgia, forbidding them to grant lands or make settlements which may interfere with the Indians bordering on these Colonies.

Whereas the peace and security of our Colonies and Plantations upon the Continent of North America does greatly depend upon the amity and alliance of the several nations or tribes of Indians bordering upon the said Colonies, and upon a just and faithful observance of these treaties and compacts which have been heretofore solemnly entered into with the said Indians by our Royal predecessors, Kings and Queens of this Realm;

20 And whereas notwithstanding the repeated instructions which have been from time to time given by our Royal Grandfather to the Governors of our several Colonies upon this head, the said Indians have made and do still continue to make great complaints that settlements have been made and possession taken of lands, the property of which they have by treaties reserved to themselves, by persons claiming the said lands under pretence of deeds of sale and conveyance illegally, fraudulently and surreptitiously obtained of the said Indians;

And whereas it has likewise been represented to us that some of our Governors or other chief officers of our said Colonies, regardless of the duty they owe to us and of the welfare and security of our Colonies, have countenanced such unjust claims and pretensions by passing grants of the lands so pretended to have been purchased of the Indians.;

30 We therefore taking this matter into our Royal consideration, as also the fatal effects which would attend a discontent amongst the Indians in the present situation of affairs, and being determined upon all occasions to support and protect the said Indians in their just rights and possessions, and to keep inviolable the treaties and compacts which have been entered into with them, do hereby strictly enjoin and command that neither yourself nor any Lieutenant-Governor, President of the Council or Commander in Chief of our said ^{Colony} Province of _____, do upon any pretence whatever, upon pain of our highest displeasure, and of being forthwith removed from your or his office, pass any grant or grants to any persons whatever of any lands within or adjacent to the territories possessed or occupied by the said Indians, or the property possession of which has at any time been reserved to or claimed by them. And it is our further will and pleasure that you do publish a proclamation in our name strictly enjoining and requiring all persons whatever, who may either wilfully or inadvertently have seated themselves on any lands so reserved

* Doc. Hist. N. Y., vol. 7, p. 478.

JOINT
APPENDIX.SEC. III.
*Imperial
Correspon-
dence and
Documents.*

to or claimed by the said Indians, without any lawful authority for so doing, forthwith to remove therefrom. And in case you shall find, upon strict enquiry to be made for that purpose, that any person or persons do claim to hold or possess any lands within our said ^{Province} Colony of _____, upon pretence of purchases made of the said Indians, without a proper license first had and obtained either from us or any of our royal predecessors or any person acting under our or their authority, you are forthwith to cause a prosecution to be carried on against such person or persons who shall have made such fraudulent purchases to the end that the land may be recovered by due course of law. And whereas the wholesome laws that have at different times been passed in several of our said Colonies, and the instructions which have been given by our royal predecessors for restraining persons from purchasing lands of the Indians without a license for that purpose, 10 and for regulating the proceedings upon such purchases, have not been duly observed, it is therefore our express will and pleasure that when any application shall be made to you for license to purchase lands of the Indians, you do forbear to grant such license until you shall have first transmitted to us by our Commissioners for Trade and Plantations the particulars of such applications as well in respect to the situation as the extent of the lands so proposed to be purchased, and shall have received our further directions therein; and it is our further will and pleasure that you do forthwith cause this our instruction to you to be made public not only within all parts of your said ^{Province} colony of _____, inhabited by our subjects, but also amongst the several tribes of Indians living within the same to the end that our royal will and pleasure in the premises may be known, and that the Indians may be apprised of our determined resolution to support them in 20 their just rights, and inviolably to observe our engagements with them.

Treaty of Paris, 1763.

Article IV.—His Most Christian Majesty renounces all pretensions which he has heretofore formed, or might form, to Nova Scotia or Acadia in all its parts, and guarantees the whole of it, with all its dependencies to the King of Great Britain; moreover, His Most Christian Majesty cedes and guarantees to his said Britannic Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton, and all other islands and coasts in the Gulf and River St. Lawrence, and in general, everything that depends on the said countries, lands, islands and coasts, with the sovereignty, property, possession, and all rights, acquired by treaty or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, 30 islands, lands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample form without restriction and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possessions above mentioned.

Royal Proclamation, October 7th, 1763.

BY THE KING.—A PROCLAMATION.

GEORGE R.

Whereas, we have taken into our Royal consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace, concluded at Paris the 10th day of February last, and being desirous that all Our loving Subjects, as well of Our 40 Kingdoms as of Our Colonies in America, may avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commerce, manufactures and navigation, We have thought fit, with the advice of Our Privy Council, to issue this Our Royal Proclamation, hereby to publish and declare to all Our loving Subjects, that we have, with the advice of Our said Privy Council, granted Our Letters Patent, under Our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to Us by the said Treaty, four distinct and separate Governments, styled and called by the names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows, viz.:

First.—The Government of Quebec, bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from the head of that River, through the Lake St. John to the South end of the Lake Nipissim; from whence the said line, crossing the River St. Lawrence, and the Lake Champlain, in 45 degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the sea; and also along the North coast of the Baye des Chaleurs, and the Coast of the Gulf of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence, by the West end of the Island of Anticosti, terminates at the aforesaid River of St. John.

Secondly.—The Government of East Florida, bounded to the Westward by the Gulf of Mexico
10 and the Apalachicola River; to the Northward by a Line drawn from that part of the said River where the Chatahouchee and Flint Rivers meet, to the source of St. Mary's River, and by the course of the said River to the Atlantic Ocean; and to the Eastward and Southward by the Atlantic Ocean and the Gulf of Florida, including all islands within six leagues of the Sea Coast.

Thirdly.—The Government of West Florida, bounded to the Southward by the Gulf of Mexico, including all islands within six leagues of the Coast from the River Apalachicola to Lake Pontchartrain; to the Westward by the said Lake, the Lake Maurepas, and the River Mississippi; to the Northward by a line drawn due East from that part of the River Mississippi which lies in 31 degrees North Latitude, to the River Apalachicola or Chatahouchee; and to the Eastward by the said River.

20 Fourthly.—The Government of Grenada, comprehending the island of that name, together with the Grenadines, and the Islands of Dominico, St. Vincent's and Tobago.

And to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent islands, we have thought fit, with the advice of Our said Privy Council, to put all that Coast from the River St. John's to Hudson's Straits, together with the Islands of Anticosti and Madelaine, and all other smaller islands lying upon the said Coast, under the care and inspection of Our Governor of Newfoundland.

We have also, with the advice of Our Privy Council, thought fit to annex the Islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to Our Govern-
ment of Nova Scotia.

30 We have also, with the advice of Our Privy Council aforesaid, annexed to Our Province of Georgia all the lands lying between the Rivers Alatomaha and St. Mary's.

And whereas, it will greatly contribute to the speedy settling Our said new Governments, that Our loving Subjects should be informed of Our paternal care for the security of the liberties and properties of those who are and shall become inhabitants thereof, We have thought fit to publish and declare, by this Our Proclamation, that We have in the Letters Patent under Our Great Seal of Great Britain, by which the said Governments are constituted, given express power and direction to Our Governors of Our said Colonies respectively, that so soon as the state and circumstances of the said Colonies will admit thereof, they shall, with the advice and consent of the members of Our Council, summon and call General Assemblies within the said Governments respectively, in
40 such manner and form as is used and directed in those Colonies and Provinces in America which are under Our immediate Government; and We have also given power to the said Governors, with the consent of Our said Councils, and the representatives of the people so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of Our said Colonies and of the people and inhabitants thereof, as near as may be agreeable to the laws of England, and under such regulations and restrictions as are used in other Colonies; and in the meantime, and until such Assemblies can be called as aforesaid, all persons inhabiting in or resorting to Our said Colonies may confide in Our Royal Protection for the enjoyment of the benefit of the laws of Our Realm of England; for which purpose we have given power under Our Great Seal to the Governors of Our said Colonies

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respectively to erect and constitute, with the advice of Our said Councils respectively, Courts of Judicature and Public Justice within Our said Colonies, for hearing and determining all causes, as well criminal as civil, according to law and equity, and as near as may be agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such Courts, in all civil cases, to appeal, under the usual limitations and restrictions, to Us in Our Privy Council.

We have also thought fit with the advice of Our Privy Council as aforesaid, to give unto the Governors and Councils of Our said three new Colonies upon the Continent full Power and Authority to settle and agree with the Inhabitants of Our said New Colonies or with any other persons who shall resort thereto, for such lands, tenements, and hereditaments as are now or here- 10
after shall be in our power to dispose of, and them to grant to any such Person or Persons, upon such Terms, and under such moderate Quit Rents, Services and Acknowledgments, as have been appointed and settled in Our other Colonies, and under such other conditions as shall appear to us to be necessary and expedient for the advantage of the Grantees, and the Improvement and Settlement of our said Colonies.

And whereas We are desirous, upon all occasions, to testify Our Royal Sense and Approbation of the Conduct and Bravery of the Officers and Soldiers of Our Armies, and to reward the same, We do hereby command and empower Our Governors of Our said three new Colonies, and all other Governors of Our several Provinces on the Continent of North America, to grant, without fee or reward, to such reduced Officers as have served in North America during the late war and 20
to such private soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following quantities of land subject at the expiration of ten years to the same Quit Rents as other lands are subject to in the Province within which they are granted, as also subject to the same conditions of cultivation and improvement, viz.:

- To every person having the Rank of a Field Officer,.....5,000 acres.
- To every Captain,3,000 “
- To every Subaltern or Staff Officer,.....2,000 “
- To every Non-Commissioned Officer, 200 “
- To every Private man, 50 “ 30

We do likewise authorize and require the Governors and Commanders in Chief of all Our said Colonies upon the Continent of North America to grant the like quantities of land, and upon the same conditions, to such reduced officers of Our Navy of like Rank as served on board Our ships of War in North America at the times of the Reduction of Louisbourg and Quebec in the late war, and who shall personally apply to Our respective Governors for such grants.


And whereas it is Just and Reasonable and Essential to Our Interests and the Security of Our Colonies that the several Nations or Tribes of Indians with whom we are connected and who live under Our protection should not be molested or disturbed in the possession of such parts of Our Dominions and Territories as, not having been ceded to or purchased by Us are reserved to them or any of them as their hunting grounds, We do therefore with the Advice of Our Privy 40
Council declare it to be Our Royal Will and Pleasure that no Governor or Commander-in-Chief in any of Our Colonies of Quebec, East Florida or West Florida, do presume upon any pretence whatever to grant warrants of Survey or pass any Patents for Lands beyond the bounds of their respective Governments as described in their Commissions ; as also that no Governor or Commander-in-Chief in any of Our other Colonies or Plantations in America do presume for the present, and until Our further pleasure be known, to grant warrants of Survey, or pass Patents for any Lands beyond the head or sources of any of the Rivers which fall into the Atlantic Ocean from the West and North-west, or upon any lands whatever, which not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians or any of them.

And we do further declare it to be our royal will and pleasure, for the present, as aforesaid, 50
to reserve under our Sovereignty, protection and dominion, for the use of the said Indians, all the

land and territories not included within the limits of our said three new Governments, or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north-west as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatsoever, or taking possession of any of the lands above reserved, without our especial leave or license for that purpose first obtained.

And we do further strictly enjoin and require all persons whatsoever, who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians, in order therefore to prevent such irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our Privy Council, strictly enjoin and require, that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, in some public meeting or assembly of the said
20 Indians, to be held for that purpose by the Governor or Commander-in-Chief of our colony respectively within which they shall lie, and in case they shall lie within the limits of any proprietary government, they shall be purchased only for the use and in the name of such proprietaries, conformable to such directions and instructions as we or they shall think proper to give for that purpose. And we do, by the advice of our Privy Council, declare and enjoin, that the trade with the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians do take out a license for carrying on such trade from the Governor or Commander-in-Chief of any of our colonies respectively where
30 such person shall reside, and also give security to observe such regulations as we shall at any time think fit, by ourselves or commissaries to be appointed for this purpose, to direct and appoint for the benefit of the said trade; and we do hereby authorize, enjoin, and require the Governors and Commanders-in-Chief of all our colonies respectively, as well those under our immediate government as those under the government and direction of proprietaries, to grant such licenses without fee or reward, taking especial care to insert therein a condition that such license shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as we shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of the Indian affairs within the territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all persons whatever, who standing charged with treasons, misprisions of treason, murders or other felonies or misdemeanors, shall fly from justice and take refuge in the said territory, and to send them under a proper guard to
40 the colony where the crime was committed of which they shall stand accused, in order to take their trial for the same. 

Given at our Court at St James's the 7th day of October, 1763, in the third year of our reign.

*Representation of the Lords of Trade to the King on the State of Indian Affairs, 1768.**

TO THE KING'S MOST HIGH MAJESTY :

May it please Your Majesty,—In obedience to your Majesty's commands, signified to us by a letter from the Earl of Shelburne, one of your Majesty's Principal Secretaries of State, dated the 5th of October last, we have taken into our most serious consideration the several memorials, letters and

*Doc. Hist. N. Y., vol, 8, pp. 19-23, 27-30.

other papers therewith referred to us containing objections to, and observations upon the present plan for the management of our commerce with the Indians in North America; stating the great expense attending as well that branch of service, as the present disposition of the troops for Indian purposes, and urging the expediency and propriety, in various lights, of establishing certain new Governments upon the Mississippi, the Ohio and at the Detroit, between the Lakes Erie and Huron; we have also conferred upon this occasion with such of your Majesty's military servants, as have been employed in North America, and with such merchants and others as are most intelligent in the North American and Indian trade.

Whereupon we humbly beg leave to represent to your Majesty, that the subject matter, to which these papers refer, and the questions arising thereupon, stated to us in the Earl of Shelburne's letter, appear to us to lead to a consideration of no less consequence and importance, than what system it may be now proper for your Majesty to pursue, with respect to that vast and extensive country in North America, which on account of the Indian war raging within it, was made by the proclamation of the 7th of October, 1763, the object of mere provisional arrangements. . . . 10

The parts of the service for which we are more immediately called upon by the Earl of Shelburne's letter to give our attention, are, first, the present civil establishment regarding the Indians; secondly, the disposition of the troops for Indian purposes; and lastly, the establishment of certain new Colonies.

With respect to the first of these points, we are directed to state our opinion, how far the present expenses of the civil establishment regarding the Indians may with safety and propriety be reduced, by entrusting the Indian trade, and all other Indian affairs to the management of the several Colonies. 20

In considering this question it may be proper to observe that the institution of Superintendants for the affairs of Indians appears to have been a measure originally adopted principally with a view to counteract the designs of the French, in 1754, who by sowing the seeds of jealousy amongst the Indians, and exciting them to resent injuries for redress of which they had in vain solicited the Colonies, had well nigh entirely weaned them from the British interest, and at the same time, by uniting the force and conducting the enterprises of the savages, had rendered them an over match for your Majesty's Colonies standing single and disunited.

In order therefore to balance the danger arising from this more immediate union and co-operation of the French with the Indians, it became necessary to provide a more systematical as well as more extensive plan of defence for the Colonies than had before been requisite. . . . 30

To maintain a good correspondence with the Indians is undoubtedly an object of great importance, and upon a careful examination into the state of Indian affairs after the conclusion of peace, it appears that the two principal causes of the discontent that still rankled in the minds of the Indians and influenced their conduct, were the encroachments made upon lands which they claimed as their property, and the abuses committed by Indian traders and their servants. The necessity which appeared in the then state of our interest with the Indians of making some immediate provision against these two causes of their discontent, induced the Proclamation of October, 1763, which very prudently restrained all persons from trading with the Indians without license, and forbid, by the strongest prohibitions, all settlement beyond the limits therein described as the boundary of the Indian hunting-ground, putting both their commerce and property under the protection of officers acting under Your Majesty's immediate authority, and making their intervention necessary in every transaction with those Indians. 40

These, however, being, as we have before observed, mere provisional arrangements adapted to the exigence of the time, it is become now necessary to consider what may be more permanently requisite in both the cases to which they apply.

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The giving all possible redress to the complaints of the Indians in respect to encroachments on their lands, and a steady and uniform attention to a faithful execution of whatever shall be agreed upon for that salutary purpose, is a consideration of very great importance. It is a service of a general nature, in which Your Majesty's interest as lord of the soil of all ungranted lands which the Indians may be inclined to give up, is deeply and immediately concerned, and with which the general security of Your Majesty's possessions there is in some measure connected ; it is
10 an object comprehensive of a variety of cases, to which the separate authority and jurisdiction of the respective Colonies is not competent, and it depends upon negotiation, which has always been carried on between Indians and officers acting under Your Majesty's immediate authority, and has reference to matters which the Indians would not submit to the discussion of particular Colonies.

For these reasons we are of opinion that the execution of all measures and circumstances respecting the complaints of the Indians touching their lands, should be continued to be entrusted to the Superintendants at present acting under Commission from Your Majesty, reserving to the Governor and Council of every particular Colony which may be interested in any measure that has reference to this general service, a right to interpose their advice, and making their concur-
20 rence necessary to the ratification of every compact that shall be provisionally made, until Your Majesty's pleasure shall be known upon it.

In a plan for the management of Indian affairs prepared by this Board in 1764, the fixing a boundary between the settlements of Your Majesty's subjects and the Indian country was proposed to be established by compact with the Indians, as essentially necessary to the gaining their good will and affection and to preserving the tranquility of the Colonies.

This plan having been communicated to the Superintendants, they have, in the consequence thereof, made the proposition of such a boundary line an object of their particular attention, and of negotiation and discussion with the several tribes of Indians interested therein.

In the southern district a boundary line has not only been established by actual Treaties
30 with the Creeks, Cherokees and Chactaws, but has also, as far as relates to the Provinces of North and South Carolina, been marked out by actual surveys, and has had the happy effect to restore peace and quiet to those Colonies.

In the Northern District the proposition appears to have been received by the Indians with the strongest marks of approbation and satisfaction, and a line of separation was in 1765 suggested by them, in which Sir William Johnson acquiesced, declaring at the same time that he could not finally ratify it without Your Majesty's further directions. . . .

What we have above stated in respect to the expediency of continuing the office of superintendants is confined merely to negotiation with the Indians concerning the boundary line ; but we humbly submit that their other branches of duty and service, which though they be of less
40 urgency, yet do both from their nature and importance require the intervention of officers acting

under Your Majesty's immediate authority, and which as they have reference to the general interests of the Indians, independent of their connection with any particular Colony, cannot be provided for by the Provincial laws. Such are the renewal of ancient compacts or covenant-chains made between the Crown and the principal tribes of Savages in that country; the reconciling differences and disputes between one body of Indians and another; the agreeing with them for the sale or surrender of lands for public purposes not lying within the limits of any particular Colony; and the holding interviews with them for these and a variety of other general purposes which are merely objects of negotiation between Your Majesty and the Indians.

These may it please Your Majesty, are, in our judgment, services of great importance, and to which it is essentially necessary for the preservation of the British interest with those Indians, 10 and for the preventing all foreign influence and connection, that strict attention should be paid.

Antecedent to the establishment of the present plan of superintendants, the management of these interests was entrusted to the Governors of the Colonies which were principally connected with the Indians; but when we consider the dependent state of such Governors; that the other duties of their station must interfere with this very important one; how greatly the objects of this service are increased by alliances with those numerous nations heretofore under the dominion of France, and how necessary it is that a constant watch should be kept upon their motions and designs, and that Your Majesty's servants should be constantly and regularly informed of the true state of affairs, and of all transactions in the Indian country, we cannot but be of opinion that these are reasons joined to what we have already stated which do make it essentially 20 necessary that the office of superintendants should for the present be continued for these purposes, and that they should be enabled by stated annual establishment, confined to a certain sum, to make such presents as have been usual and customary. . . .

Upon the whole, we trust that the expense of the present disposition of troops for Indian purposes may be reduced without hazarding either the safety or the interest of your Majesty's subjects, unless indeed it should be thought expedient to adopt the proposition contained in some of the papers referred to us, of settling new colonies in the interior country; for in that case we should not venture to recommend any reduction of the military expense in the particulars above stated. This consideration, therefore, naturally leads us to the last head of inquiry referred to us by the Earl of Shelburne's letter, viz.: How far the establishment of new governments on the 30 Mississippi, the Ohio, and at Detroit would contribute to answer the purpose of lessening either the present civil or military expense, or would procure the several other important advantages set forth in the papers referred to us.

Now, although it does not appear from the papers referred to us, that propositions have been made for the establishment of more than three new governments or colonies in the interior parts of America, viz.: One at the Detroit, between Lakes Erie and Huron, one at or near the mouth of the Ohio, and one in the Illinois country, at or near the mouth of the river of that name; and, therefore, by the strict letter of his Lordship's reference, the present consideration seems to be confined to these only. Yet, as it does appear both from the nature of the arguments in favor of this measure contained in some of the papers, and from the manner in which others have been 40

explained by the authors of the proposals themselves, that they are meant to support the utility of colonizing in the interior country, as a general principle of policy; and that in fact they have nothing less in view than the entire possession and peopling of all that country which has communication with the Rivers Mississippi and St. Lawrence, it does in our humble opinion open a much wider field of discussion than might at first glance seem necessary.

The proposition of forming inland colonies in America is, we humbly conceive, entirely new; it adopts principles in respect to American settlements different from what has hitherto been the policy of this Kingdom, and leads to a system, which if pursued through all its consequences, is, in the present state of this country, of the greatest importance.

10 The great object of colonizing upon the continent of North America has been to improve and extend the commerce, navigation and manufactures of this Kingdom, upon which its strength and security depend.

First.—By promoting the advantageous fishery carried on upon the northern coast.

Secondly.—By encouraging the growth and culture of naval stores, and of raw materials to be transported hither in exchange for perfect manufacture and other merchandize.

Thirdly.—By securing a supply of lumber, provisions and other necessaries for the support of our establishments in the American islands.

In order to answer these salutary purposes it has been the policy of this Kingdom to confine her settlements as much as possible to the sea coast, and not to extend them to places inaccessible
20 to shipping, and consequently more out of the reach of commerce, a plan which at the same time that it secured the attainment of these commercial objects had the further political advantage of guarding against all interfering of foreign powers, and of enabling this Kingdom to keep up a superior naval force in those seas, by the actual possession of such rivers and harbors as were proper stations for fleets in time of war.

Such, may it please your Majesty, have been the considerations inducing that plan of policy hitherto pursued in the settlement of your Majesty's American colonies, with which the private interest and sagacity of the settlers co-operated from the first establishment formed upon that continent. It was upon these principles and with these views that Government undertook the settling of Nova Scotia in 1749, and it was from a view of the advantages represented to arise
30 from it in these different articles that it was so liberally supported by the aid of Parliament.

The same motives, though operating in a less degree and applying to fewer objects, did, as we humbly conceive, induce the forming the colonies of Georgia, East Florida and West Florida to the south, and the making those provisional arrangements in the proclamation in 1763, by which the interior country was left to the possession of the Indians.

Having thus briefly stated what has been the policy of this Kingdom in respect to colonizing in America, it may be necessary to take a cursory view of what has been the effect of it in those colonies where there has been sufficient time for that effect to discover itself; because if it shall appear from the present state of those settlements and the progress they have made that they are likely to produce the advantages above stated, it will, we humbly apprehend, be a very strong
40 argument against forming settlements in the interior country. . . . Therefore, as we are fully convinced that the encouraging settlements upon the sea coast of North America is founded in the true principles of commercial policy, and as we find, upon examination, that the happy effects of that policy are now beginning to open themselves in the establishment of those branches of commerce, culture and navigation upon which the strength, wealth and security of this Kingdom depend, we cannot be of opinion that it would in any view be advisable to divert your Majesty's subjects in America from the pursuit of these important objects by adopting measures of a new policy at an expense to this Kingdom, which, in its present state, it is unable to bear.

This, may it please your Majesty, being the light in which we view the proposition of colonizing in the interior country, considered as a general principle of policy, we shall in the next place

THE KING'S INSTRUCTIONS RESPECTING CERTAIN INDIAN PURCHASES.

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Correspondence and
Documents.**Earl of Dartmouth to Governor Tryon, of New York, 2nd June, 1773.**

With respect to the lines of jurisdiction that are finally to limit the Province of New York on the side of New Hampshire and of Quebec, His Majesty's pleasure has been already declared on that head; and as to all lands within the Province of New York, for which the Governors of that province have not granted patents, whether they be waste lands, or lands claimed under grants from the Governor of New Hampshire, or from the Crown of France or its officers, the King reserves to himself, as a matter appertaining to his own dignity and authority, the determination of what may be advisable to be done thereupon; His Majesty, however, does not think fit that
 10 any countenance should be given to claims founded on Indian purchases of the nature of those to which your letter refers, and therefore the utmost those purchasers can hope for is, that His Majesty may be induced, out of His grace and indulgence, to consent that they should be repaid their expenses out of any monies that hereafter arise by the disposal of those lands upon such plans as will probably soon be adopted.

SYSTEM OF INDIAN PURCHASES IN NEW YORK.

Governor Tryon to the Earl of Dartmouth, New York, June 2nd, 1773.†

MY LORD,—It gives me real concern, that the motives of my conduct respecting the Indian purchases, at last congress, as explained in my letter No. 9, have not met with your Lordship's approbation. * *

20 It has become usual for the inhabitants, when they incline to purchase, to form associations, and, after contributing to the expense, to leave it to a few of their number to manage the business in trust for the rest, and in their names alone the petition and license, and the purchase itself, are negotiated. The cession is immediately to the Crown, and the purchasers who advance the money derive no other advantage from it than a claim upon the honour and justice of Government to a preference in Letters Patent. For this purpose a second petition is presented, praying for a grant, and here the advice of council is again as necessary as before it had been, to authorize the license. In this stage of the proceedings all the parties interested become petitioners by name, and to each is advised to be granted a thousand acres and no more. The Surveyor-General then
 30 receives the Governor's warrant requiring him to survey for each of those petitioners a thousand acres, and their proportions are united, and laid out, in one tract or township, or in separate lots, as they agree among themselves. The return completed, it is presented to the Commissioners for laying out the Crown Lands, who are to examine and see that it corresponds with the instruction; and, having given their certificates to that effect, a warrant issues to the Attorney-General to prepare the draft of Letters Patent, and this being done, and accompanied with his certificate that they contain nothing contrary to His Majesty's interest, the draft is delivered to the Secretary to be engrossed, and the seal being affixed, it is registered and docketted in the Auditor General's office.

Your Lordship will be pleased to observe, that according to this system, which is in all cases (except on a mandamus), strictly pursued, the Indian deed makes no part of the subject's title, who holds immediately from the Crown, and it is of no other moment than to satisfy the claim of the
 40 native occupants. It must therefore appear to be immaterial, whether that deed is expressed to be taken for the benefit of one or many, since it vests no legal right; and none can be obtained but by the royal grant, and in the mode which the instructions prescribe.

* Doc. Hist., N.Y., vol. 8, p. 373.

† *Ib.*, pp. 373-4.

TITLES UNDER WHICH LANDS HELD IN NEW YORK, 1774.

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dence and
Documents.**Report of Governor Tryon to the King (transmitted through the Earl of Dartmouth),
June 11th, 1774.**

With respect to the titles under which the inhabitants hold their possessions, before this Province was granted on 12th March, 1664, by King Charles the Second to his brother James, Duke of York, the Dutch West India Company had seized it, made settlements, and issued many grants of land. In August, 1664, the country was surrendered by the Dutch to the English, and by the 3rd Article of the terms of Capitulation it was stipulated "That all people shall continue free denizens and shall enjoy their lands, houses, and goods wheresoever they are within this country, and dispose of them as they please." Some lands of the Province are held under the old Dutch grants without any confirmation of their titles under the Crown of England, but the ancient records are replete with confirmatory grants, which the Dutch inhabitants were probably the more solicitous to obtain from an apprehension that the Dutch conquest of the Province in 1673, might render their titles under the former articles of capitulation precarious, though the country was finally restored to the English by the treaty signed at Westminster the 9th February, 1674. 10

From that period it has remained in the possession of the English, and the Duke of York, on the 28th of June, 1674, obtained a new grant from the King, of all the territories included within the former Letters Patent in 1664. During the life of King Charles the Second, the Duke of York, as proprietor of the soil, passed many grants (by his Governors) in fee, and since his accession to the Throne, grants have continued to issue under the Great Seal of the Province, in consequence of the powers given the several Governors, by their commissions and instructions from the Crown. Two instances only occur of grants of Letters Patent for lands under the Great Seal of Great Britain, one to Sir Joseph Eyles and others, on the 15th May, in the fourth year of his late Majesty King George the Second, for a tract of 62,000 acres, called the Equivalent Land, from its having been ceded to New York by the colony of Connecticut (on the settlement of the boundary between the two Provinces), in lieu of a like quantity yielded up to Connecticut by the Province of New York. The other lately, to Sir William Johnson, Baronet. The lands granted to Sir Joseph Eyles and his associates are not possessed by them or their assigns, Letters Patent under the Great Seal of the Province of New York having passed to others for the same lands, before it was known here that the royal grant was obtained, and the lands are now in possession of the New York patentees or their assigns. 20 30

These are all the different modes by which the inhabitants have derived any legal titles to their lands within the limits of this Province, whence it appears that all their lawful titles to lands in fee, except in the cases of old Dutch grants unconfirmed, originated from the Crown, either *mediately* through the Duke of York before his accession to the throne, or *immediately* by grants under the Great Seal of Great Britain, or of this Province.

Purchases from the Indian natives, as of their aboriginal right have never been held to be a legal title in this Province, the maxim obtaining here, as in England, that the King is the fountain of all real property, and that from this source all titles are to be derived.

* Doc Hist., N. Y., vol. 8, pp. 441-2.

CORRESPONDENCE BETWEEN THE SECRETARY OF STATE FOR THE COLONIES,
AND THE GOVERNORS OF THE BRITISH NORTH AMERICAN PROVINCES
RESPECTING THE INDIANS, 1836-1838.

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ORDERED BY THE HOUSE OF COMMONS, TO BE PRINTED 17TH JUNE, 1839.

(Selections.)

THE INDIANS OF UPPER AND LOWER CANADA.

Sir F. B. Head to Lord Glenelg.

TORONTO, 20th August, 1836.

MY LORD, . . . On arriving at the Great Manatoulin Island, where I was received by 1500
10 Indians, who had assembled for their presents, I found that this Island, as well as those I had
mentioned, belonged (under the Crown) to the Chippawa and Ottawa Indians, and that it
would be necessary to obtain their permission before we could avail ourselves of them for the
benefit of the other tribes.

Although I did not approve of the responsibility, as well as the expense of attracting, as had
been proposed, the wild Indians from the country north of Lake Huron to Manatoulin, yet it was
evident to me that we should reap a very great benefit if we could persuade these Indians who are
now impeding the progress of civilization in Upper Canada, to resort to a place possessing the
double advantage of being admirably adapted to them, (inasmuch as it affords fishing, hunting,
bird-shooting and fruits), and yet in no way adapted to the white population. . . .

20 Nothing could be more satisfactory than the calm deliberate manner in which the Chief gave,
in the name of the great Ottawa tribe, his entire approval of my projects; and as the Chippawa
and Ottawas thus consented to give up the 23,000 islands, and as the Saugins also consented to give
up a million and a half acres adjoining the lands of the Canada Company, I thought it advisable
that a short plain Memorandum should be drawn up, explanatory of the foregoing arrangements,
to be signed by the Chiefs while in Council, and witnessed by the Church of England, Catholic
and Methodist clergymen who were present, as well as by the several officers of His Majesty's
Government.

I enclose to your Lordship a copy of this most important document. * * * *

30 Your Lordship will at once perceive that the document is not in legal form; but our dealings
with the Indians have been only in equity, and I was therefore anxious to show that the transaction
had been equitably explained to them.

The surrender of the Saugin territory has long been a desideratum in the Province, and it is
now especially important, as it will appear to be the first fruits of the political tranquility which
has been obtained.

I feel confident that the Indians, when settled by us in the manner I have detailed, will be
better off than they were, that the position they occupy can *bona fide* be fortified against the encroach-
ments of the whites, while on the other hand there can be no doubt that the acquisition of their
vast and fertile territory will be hailed with joy by the whole Province.

I have, etc., etc.

F. B. HEAD. 40

MEMORANDUM REFERRED TO IN THE FOREGOING DESPATCH.

(*Seal of Sir F. B. Head, and the Wampum.*)

MY CHILDREN,—Seventy snow seasons have now passed away since we met in Council at the
Crooked Place (Niagara), at which time and place your Great Father the King and the Indians of
North America tied their hands together by the Wampum of friendship.

Since that period various circumstances have occurred to separate from your Great Father many of his Red Children, and as an unavoidable increase of white population, as well as the progress of cultivation, have had the natural effect of impoverishing your hunting grounds, it has become necessary that new arrangements should be entered into for the purpose of protecting you from the encroachments of the whites.

In all parts of the world, farmers seek for uncultivated land as eagerly as you, my red children, hunt in your great forests for game. If you would cultivate your land it would then be considered your own property; in the same way as your dogs are considered among yourselves to belong to those who have reared them; but uncultivated land is like wild animals, and your Great Father, who has hitherto protected you, has now great difficulty in securing it for you from the whites who are hunting to cultivate it. 10

Under these circumstances I have been obliged to consider what is best to be done for the Red Children of the forest, and I now tell you my thoughts.

It appears that these Islands in which we are now assembled in Council, are, as well as all those on the north shore of Lake Huron, alike claimed by the English, the Ottawas and the Chippawas.

I consider that, from their facilities, and from their being surrounded by innumerable fishing Islands, they might be made a most desirable place of residence for many Indians who wish to be civilized as well as to be totally separated from the Whites; and I now tell you that your Great Father will withdraw his claim to these Islands, and allow them to be applied for that purpose. 20

Are you, therefore, the Ottawas and Chippawas, willing to relinquish your respective claims to these Islands, and make them the property (under your Great Father's control) of all Indians whom he shall allow to reside on them? If so, affix your marks to this proposal.

F. B. HEAD.

J. B. ASSEKINACK.
MOKOMMINOCK.
WAWARPHACK.
KIMOWM.
KITCHEMOKOMOU.
PEGA ATA WICH.
PAIM AUSIGAL.
NAIMAWMUTTEBE.

MOSUWEKO.
KEWUCKANCE.
SHAWENAUSAWAY.
ESPANIOLE.
SNAKE.
PANTAUSEWAY.
PARMAUGUMESHUM.
WAGAUMAUGUIN. 30

Manatowanning, 9th August, 1836.

To the Saukings.

MY CHILDREN,—You have heard the proposal I have just made to the Chippawas and Ottawas, by which it has been agreed between them and your Great Father that these Islands (Manatoulin), on which we are now assembled in Council should be made the property (under your Great Father's control), of all Indians whom he shall allow to reside on them.

I now propose to you 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 40 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 forever to protect for you from the encroachment of the whites.

Are you therefore, the Sauking Indians, willing to accede to this arrangement? If so, affix your marks to this my proposal.

JOINT
APPENDIX.

F. B. HEAD.

Sec. III.
*Imperial
Correspondence and
Documents.*KAGUTA.
MATEWABE.
ALESCANDRE.CRENEVIREM.
KONQUAWIS.
MATWAUSH.*Witness:*

J. G. ANDERSON, *S. I. A.*
JOSEPH STINSON, *General Sup't of Wesleyan Missionary Society.*
ADAM ELLIOTT,
JAMES EVANE,
J. L. INGALL, *Lieutenant 15th Regiment, commanding Detachment.*
H. W. FIELDS, *D. A. C. General.*

10

Manatowanning, 9th August, 1836.

Sir F. B. Head, K. C. H., to Lord Glenelg.

TORONTO, UPPER CANADA, 20th November, 1836.

MY LORD,—As the object of this communication is to endeavor to supply your Lordship with the information respecting the Indians and the Indian Department, required by your Lordship's despatch No. 12, I feel it may be satisfactory that I should commence by explaining what opportunities I have had of forming the opinion I am about to offer on the subject.

20 I have therefore the honor to state to your Lordship, that I attended the annual delivery of presents to the visiting Indians at Amherstburg, as also that which took place for the first time at the Great Manatoulin Island, in Lake Huron.

During my inspectional tour of the Province I also visited (with one or two trifling exceptions) the whole of the Indian settlements in Upper Canada, and in doing so made it my duty to enter every shanty or cottage, being desirous to judge with my own eyes of the actual situation of that portion of the Indian population which is undergoing the operation of being civilized.

I have had a slight opportunity of making myself acquainted with the Indian character in South America, and from the above data I have now the honour to transmit to your Lordship the following observations on the subject.

30

MEMORANDUM.

The fate of the red inhabitants of America, the real proprietors of its soil, is, without any exception, the most sinful story recorded in the history of the human race; and when one reflects upon the anguish they have suffered from our hands, and the cruelties and injustice they have endured, the mind, accustomed to its own vices, is lost in utter astonishment at finding that in the red man's heart there exists no sentiment of animosity against us, no feeling of revenge; on the contrary, that our appearance at the humble portal of his wigwam is to this hour a subject of unusual joy; if the white man be lost in the forest, his cry of distress will call the most eager hunter from his game, and among the tribe there is not only pleasure but pride in contending with each other who shall be the first to render assistance and food.

40 So long as we were obtaining possession of their country by open violence, the fatal result of the unequal contest was but too easily understood; but now that we have succeeded in exterminating their race from vast regions of land, where nothing in the present day remains of the poor Indian but the unnoticed bones of his ancestors, it seems inexplicable how it should happen, that

even where the race barely lingers in existence, it should still continue to wither, droop and vanish before us, like grass in the progress of the forest in flames. The "Red men," lately exclaimed a celebrated Miami Cacique, "are melting like snow before the sun!" * * * *

At the Great Manatoulin Island, in Lake Huron, where I found about 1,500 Indians of various tribes assembled for their presents, the Chippawas and the Ottawas, at a general council held expressly for the purpose, made over to me 23,000 islands. The Saugeen Indians also voluntarily surrendered to me a million and a half of acres of the very richest land in Upper Canada. * * *

On proceeding to Amherstburg, I assembled the Hurons, who occupy in that neighbourhood a hunting ground of rich land, of six miles square, two-thirds of which they surrendered to me, on condition that one of the said two-thirds should be sold and the proceeds invested for their 10 benefit.

The Moravian Indians, with whom I had also an interview, have likewise agreed for an annuity of £150 to surrender to me about six miles square of black rich land, situated on the banks of the Thames River.

I need hardly observe that I have thus obtained for Her Majesty's Government from the Indians an immense portion of most valuable land, which will undoubtedly produce, at no remote period, more than sufficient to defray the whole of the expenses of the Indians and the Indian Department in this Province.

On the other hand, as regards *their* interests, my despatch No. 70 will explain the arguments I used in advising them to retire and fall back upon the Manatoulin and other islands in Lake 20 Huron, the locality being admirably adapted for supporting them, but not for white men. Still it may appear that the arrangement was not just to the Indians, because it was of such benefit to us, but it must always be kept in mind, that however useful rich land is to us, yet its only value to the Indians consists in the game it contains. He is in fact lord of the manor, but it is against his nature to cultivate the soil. He has neither right nor power to sell it. As soon, therefore, as his game is frightened away, or this influx of immigration goes on to the surrounding settlements of the whites, his land, however rich it may be, becomes a *rudis indigestaque moles*, of little value or importance, and in this state much of the Indian property in Upper Canada at present exists. * * * *

For the foregoing reasons, I am decidedly of opinion that His Majesty's Government should 30 continue to advise the few remaining Indians who are lingering in Upper Canada to retire upon the Manatoulin and other islands in Lake Huron or elsewhere towards the north-west. * * * *

In a memorandum I received on the 16th July last from Mr. Commissary-General Routh, many of whose suggestions I have effected, that gentleman, not anticipating the recommendation I have now made for the ultimate discontinuance of presents to the American Indians, proposed to diminish their expense by substituting strouds instead of cloth, and by withholding powder, ball and shot.

Every person with whom I have consulted is of opinion that the latter privation would be most severely felt by the Indian hunter, who lives by his gun; however, I feel confident that Mr. Routh himself will agree with me in opinion, that if the presents to all Indians residing in the 40 United States are, as I propose, to be totally discontinued at so early a period as the expiration of three years, it would be unnecessary, unadvisable, and ungenerous to make any deduction from the pittance or gratuity which is so shortly to be withheld.

Your Lordship is aware that considerable expenses for building, etc., were incurred at the Manitoulin Island this year, but the arrangement was made by Sir John Colborne before I arrived here, and it was too late for me to alter it; however, as soon as I got there, I put a stop to all that was doing, and discharged every person who had been engaged.

Having disposed of at least one-third part of the Indian presents and the expense of their delivery, I certainly respectfully recommend that we should continue to deliver them to those few Indians who continue to inhabit Upper Canada.

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I have already stated that this expense will shortly be defrayed altogether by the sale of lands they have this year liberally surrendered to me, and even if that were not to be the case I do think that, enjoying as we do the possession of this noble Province, it is our bounden duty to consider as heirlooms the relic of that simple-minded and ill-fated race, which, as I have already stated, is daily and hourly fading before the progress of civilization. * * *

I have the honour, etc.,

F. B. HEAD.

10

Lord Glenelg to Sir F. B. Head, K.C.H.

DOWNING STREET, 5TH OCTOBER, 1836.

SIR,—I have received your despatch of the 20th August, No. 70, reporting an expedition you had made in person to the shores of the Lake Huron, and the arrangements into which you had there entered with the various tribes of Indians. Assured of the vigilant humanity by which your conduct towards this helpless race of men, the survivors of the ancient possessors and lords of the country, could not but be directed, and conscious of the incomparable superiority of your means of forming a correct judgment how their welfare could be most effectually consulted, I have thought myself not only at liberty, but obliged, in deference to your opinions, to recommend for His Majesty's
20 sanction the arrangements and the compacts into which you have entered, and, influenced by the same consideration, the King has been graciously pleased to approve them.

His Majesty, however, directs me to commend these tribes in the strongest possible terms to your continual care, and to signify his express injunction that no measure should be unattempted which may afford a reasonable prospect of rescuing this remnant of the aboriginal race from the calamitous fate which has so often befallen uncivilized men when brought into immediate contact with the natives of Europe or their descendants.

Whatever intelligence or suggestions it may be in your power to convey respecting the condition of these people, and the prospects of their being reclaimed from habits of savage life, and being enabled to share in the blessings of Christian knowledge and social improvement, will
30 at all times be received by His Majesty with the highest interest.

I have, etc.,

GLENELG.

Lord Glenelg to Sir F. B. Head, 20th January, 1837.

Your suggestion that the expense of Indian presents should hereafter be defrayed out of the sale of the lately ceded lands, appears to be very judicious. In the hands of the British Government and subject to the existing regulations as to the disposal of public lands in the Colonies, these lands hitherto of little if any value to the Indians, may not only form an important acquisition to the Province, but may at the same time supply the means of benefiting the original occupiers of the soil to a far greater extent than has as yet been practicable. The proceeds of the
40 sales of these lands would, under ordinary circumstances, be included in the casual and territorial revenues, the cession of which in return for a civil list, has been already offered to the Provincial Legislature; but under the peculiar circumstances attending their cession they must be held subject to the charge of providing to the utmost practicable extent for the wants and the improvement of the Indians; and in communicating to the Council and Assembly the result of your recent

negotiations, you will of course distinctly apprise those bodies of the object to which it is intended to apply the sums derived from these lands, or so much of them as may be required for this purpose. Considering the great benefit accruing to the Province from the acquisition of these extensive and fertile tracts, I cannot doubt that this arrangement will meet with universal acquiescence (p. 73.)

The Treasury Department to the Colonial Department.

TREASURY CHAMBERS, 9th February, 1837.

SIR,—* * * It would appear from Sir Francis Head's despatch of the 20th of November that that officer does not anticipate any beneficial results from the measures that have been adopted for the stationary location of the Indians, and for inducing them to apply to agriculture; indeed some of the proceedings now reported would seem to be at variance with those measures. 10

Upon referring, however, to the reports which have been made from time to time to His Majesty's Government respecting the settlement of different parties of the Indians, to the opinion repeatedly expressed by the officers who have preceded Sir Francis Head in the Government of Upper Canada, that the Indians would gradually adopt agricultural pursuits, and acquire habits of settled industry, as well as to the expense which has been incurred in building villages for several locations, their Lordships must suggest that it would be desirable, with a view to enable His Majesty's Government to determine what ulterior arrangements it may be expedient to adopt in this respect, that the information hereafter specified with regard to the present position of the Indians, both in the lower and upper Provinces, should be obtained, and that the requisite returns for this purpose should be called for, unless the required information can be obtained from any 20 documents already in the Colonial Department, viz.,

The number of tribes and of Indians resident within the British Territory;

The pursuits of each tribe, with the number of fixed locations occupied by the Indians;

The situation of the locations of the settled parties, or of hunting grounds occupied by the other Indians;

The extent of the lands set apart at the different locations for the use of the Indians, or of the hunting ranges. * * *

I am, etc.,

A. Y. SPEARMAN.

J. Stephen, Esq.,

&c., &c., &c.

30

Lord Glenelg to Sir F. B. Head, Bart., K.C.H.

DOWNING STREET, 20th February, 1837.

SIR,—With reference to my despatch of the 20th ultimo I have the honor to transmit herewith, for your information, the copies of a correspondence which has passed between the Treasury and this Department on the subject of your late arrangements respecting the Indians in Upper Canada. By the last paragraph of Mr. Spearman's letter you will observe that the Lords Commissioners of the Treasury are anxious to receive more accurate information than is supplied by the records of this office on several points connected with the Indian tribes. I have to request that you will furnish me with a report on the subjects alluded to by their Lordships at your early 40 convenience.

I have etc.,

GLENELG.

Lord Glenelg to the Earl of Gosford.

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DOWNING STREET, 20th February, 1837.

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Documents.*

MY LORD,—With reference to your despatch of the 18th of November last, I have the honour to transmit herewith extracts of a letter from the Secretary [Mr. Spearman] to the Lords Commissioners of the Treasury on the subject of the Indian tribes settled in the Canadian Provinces. I have to request that your Lordship will enable me to supply the Lords of the Treasury with the information which they require respecting these people, so far as relates to the Province of Lower Canada.

I have, etc.,

GLENELG.

10

The Earl of Gosford to Lord Glenelg.

CASTLE OF ST. LEWIS, QUEBEC, 13th July, 1837.

MY LORD,—With reference to your Lordships's despatch of the 14th January, 1836, No. 39, on the subject of gradually diminishing the expenditure incurred on account of the Indians in these Provinces, and of commuting the presents now issued to them for money payments, and with reference to my despatches of the 6th of January and the 15th of February last, Nos. 3 and 25, I have now the honour to transmit for your consideration a Report of the Executive Council, to whom, as I have in a former communication stated, I referred the matter. I also transmit two reports of Mr. Commissary-General Routh, and several other documents which were before the Council while considering this subject, making in the whole twenty-two enclosures to this
20 despatch.

I have approved of the report of the Council * * *

6thly, the report then advances to the consideration of a question of primary importance in conducting the experiment for inducing the Indians to change their present for more civilized habits of life, namely their settlement; and after glancing at their advantages and disadvantages of locating them in separate masses, or sprinkling them over tracts already peopled, recommends that compact settlements should be formed, of such as may be so disposed, upon lands not very remote from existing settlements, allowing, however, those that may be willing to take separate locations elsewhere, to follow their own choice, and giving them agricultural implements, but no other description of presents.

30 And, 7thly, the report closes with some account of the different tribes of Indians in this Province, and of their possessions, and recommends that certain portions of land should be reserved in specified parts of the Province for such of the tribes as appear to need such an augmentation of their property. I have accordingly given the necessary directions to the Crown Land Department not to dispose of the tracts thus pointed out until the pleasure of His Majesty's Government be known on the subject. * * *

Your Lordship will observe, that all the steps I have taken respecting the recommendations contained in the report (with the exception of establishing the Experimental School at St. John's) are merely of a preparatory nature, and adopted with a view to carry them as early as possible into effect, should they meet with your Lordship's sanction; if, on the other hand, they fail to
40 obtain this, no inconvenience will result from what I have directed to be done.

I have, etc.,

GOSFORD.

Report of the Executive Council of Lower Canada, dated 13th June, 1837, addressed to the Earl of Gosford and enclosed in the preceding despatch to Lord Glenelg.

[Extracts.]

The Tabular Statement annexed to this report will shew at one view the numbers of the Indian population of this Province, the extent of the possessions of the respective tribes, and the resources which they thence derive at present for their support:—

1st. The Iroquois of Sault St. Louis, with a population of 932 souls, own a Seigniori which was granted to the Jesuits in 1680 for the conversion, instruction and subsistence of this tribe, and contains a surface of about 40,000 acres. Of this property [a great] part has been conceded on the seigniorial tenure at the ordinary low rate of seigniorial 10 rent; but the tract reserved by the Indians for their own use contains 20,000 acres, of which, however, only 2,230 acres are cultivated, chiefly by the old men and women of the tribe, for the common benefit; and the produce for 1835, as stated in the return before the committee, may at a moderate estimate be valued at £750 or £800. * * *

Secondly, The Indians of St. Regis belonging to the same Iroquois Tribe, but numbering only 381 souls, occupy a tract in that vicinity of about 21,000 acres of land of excellent soil, and also possess a large reservation on the opposite shore of the St. Lawrence in Upper Canada, and several islands in the river, the whole amounting in both Provinces to about 50,000 acres. . . .

Of the tract of 3,000 acres which has been reserved for their own use, they have but 360 acres under cultivation, and to very little advantage. Nearly the whole of the Upper Canada reserva- 20 tion also having been leased by the chiefs for 999 years, it is stated by the Secretary for Indian Affairs, that the Government of that Province are now in treaty with the Indians for the surrender of the whole of this reserve for an annuity of £200. . . .

Thirdly. The Abenaki Indians, about 330 souls, possess seigniorial tracts of land of inferior quality on the River St. Francis, to the extent of about 12,000 acres, under ancient grants or donations; and they have also a tract of 8,900 acres in the Township of Durham, granted by the Crown in free and common socage in the year 1805, to seventeen families of this tribe, on condition of not alienating or leasing any part of it; and they own or claim several islands in the River St. Francis. But their principal settlement is on the seigniorial land, where fourteen of these Indians have taken concessions from their tribe and become farmers on their own account alone, 30 without working for the common stock. . . .

Fifthly. The Iroquois, Algonquins and Nipissings, collected, under the spiritual care of the priests of the seminary of Montreal, at the Lake of the Two Mountains, and forming altogether a population of 864 souls, have no land in their actual possession, except about 260 acres of sterile soil, which they occupy by permission of the Seminary, the possessors of the seigniori.

The circumstances of these tribes appear to the Committee to demand the peculiar attention of Government. Having done good service in the field in aid of His Majesty's army, both during the former and the late war with the United States, they are now among the most helpless and destitute of the Indians of Lower Canada. . . .

The Committee, conceive that the claims of these, and indeed of all the Indian tribes, 40 in respect of their former territorial possessions, are at the present day to be resolved into an equitable right to be compensated for the loss of lands from which in former times they derived their subsistence, and which may have been taken by Government for the purposes of settlement, and that the measure of such compensation should be to place and maintain them in a condition of at least equal advantage with that which they would have enjoyed in their former state.

Viewing in this manner the claims now made by the tribes in question, the Committee recommend that a sufficient tract of land should be set apart for them in the rear of the present

range of townships on the Ottawa River; and that such of them as may from time to time be disposed to settle on land should be located there, and that both they and the rest of these tribes should continue to receive such support, encouragement, and assistance as may supply the place of their former means of subsistence, and at the same time prepare and lead them to a state of independence of further aid.

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Sixthly. The Huron Indians of Lorette, near this city [Quebec] (about 220 in number) possess only a field of about thirty acres, adjoining their village, which they cultivate in common, and the produce of which, in 1835, may be valued at about eighty pounds; and they have also a tract, not far distant, of about 1,600 arpents, in the Seigniorship of St. Gabriel, which is still chiefly in a wilderness state. 10 Upwards of two centuries have elapsed since the Jesuits induced a number of families of this tribe to quit their hunting grounds and their savage habits, and to place themselves under their protection, for the purposes of religious instruction, in a settlement formed first at Sillery, and afterwards at Lorette. . . . (pp. 30-32.)

Appendix (A) to the foregoing Report of the Executive Council of Lower Canada.

Schedule showing the number of Indians in Lower Canada, the extent of lands owned by them, and their means of subsistence:

	Total.	Total Extent of Lands owned by them.	Land under Cultivation.	Probable Revenue.
No. 1. Iroquois of Sault St. Louis.	982	40,000 acres, Seigniorship of St. Louis.....	2,230 Acres.	£750 or £800
20 " 2. Iroquois of St. Regis	381	50,000 acres, St. Regis Reservation	360 "	£350
" 3. Abenquois of St. Francis.	330	12,000 acres on the River St. Francis, and 8,900 in the Township of Durham.	250 "	£60
" 4. Abenquois of Three Rivers	129	.....	50 "	£70 or £75
" 5. Algonquins.....	298	} 260 Acres in the Seigniorship of the Lake of the Two Mountains.	.....	.....
" Nipissings	264			
" Iroquois of the Lake of Two Mountains.	300			
" 6. Hurons of Lorette	219	1 640 acres in Lorette, and 1,600 acres in the Seigniorship of St. Gabrielle.	40 "	£80
30 " 7. Algonquins of the District of Three Rivers.	71	.....	.....	.....
" 8. Tête de Boule Indians.....	28	.....	.....	.....
" 9. Amaliquites of Rivière Verte Settlement.	105	3,000 acres, Rivière Verte Settlement.....	70 "	.....
" 10. Micmacs of Ristigouch and Gaspé.	430	.....	.....	.....
Wandering Amaliquites, Micmacs and others.	98	.....	.....	.....

[To these are to be added 230,000 acres set apart by the Legislature as a reservation for the 40 Indians of Lower Canada by the Act of the Province of Canada, 14-15 Vic., cap. 106.]

The Earl of Gosford to Lord Glenelg.

CASTLE OF ST. LEWIS, QUEBEC, 27th June, 1837.

MY LORD,—With reference to your despatch of the 20th February last, No. 180, enclosing extracts of a letter from the Secretary of the Lords Commissioners of the Treasury requesting certain information respecting the Indians and their possessions in these Provinces, I have the honour

herewith to transmit the answers that have been prepared by the Secretary for Indian Affairs to the several heads of inquiry proposed by the Lords of the Treasury, so far as relates to Lower Canada.

I have, etc.,

GOSFORD.

Answers of the Secretary for Indian Affairs, 29 May, 1837,

To the queries proposed in a letter from the Secretary to the Lords Commissioners of Her Majesty's Treasury, transmitted with the Despatch of Her Majesty's Secretary of State for the Colonial Department, No. 180, dated Downing Street, 20th February, 1837, so far as relates to the Province of Lower Canada.

10

1st Query.—“The number of tribes and of Indians resident within the British territory?”

Answer.—The tribes under the protection of the Government of Lower Canada are seven in number; namely, Iroquois, Algonquins, Nipissingues, Abenagois, Hurons, Amalicates and Micmacs. By the latest returns they are estimated at three thousand five hundred and seventy-five souls, which, computing each family on an average to consist of five persons, give a total of seven hundred and fifteen families.

2nd Query.—“The pursuits of each tribe, with the number of fixed locations occupied by the Indians?”

Answer.— There are eight fixed locations or stations occupied by the tribes in charge of the Indian Department of Lower Canada.

20

3rd Query.—“The situation of the locations of the settled parties or of hunting grounds occupied by other Indians?”

Answer.—The Indian villages or stations in Lower Canada are as follows:

1. Caughnawaga, on the Lake St. Louis, near Montreal.
2. St. Regis, at the head of Lake St. Francis, and on the line which separates the Province from the State of New York.
3. At the Lake of the Two Mountains, about thirty-six miles north-west of Montreal.
4. St. Francis, on the river of that name.
5. Becancour, on the River Becancour, and nearly opposite to the town of Three Rivers.
6. La Jeune Lorette, nine miles north of Quebec.
7. The Amalicate Settlement, on the River Verte, about one hundred and forty miles below Quebec.
8. Ristigouche, on the river of that name, near the head of Chaleur Bay.

30

The hunting grounds claimed by the Indians of Lower Canada comprise nearly the whole of the waste lands within the limits of the Province; but the hunters resort principally to the neighbourhood of Lake Huron, and to the extensive tract lying to the north of the Rivers Ottawa and St. Maurice and the Lake St. John.

4th Query.—“The extent of the lands set apart at the different locations for the use of the Indians, or of the hunting ranges?”

Answer.—The Iroquois tribe have reserved about twelve thousand acres in their Seigniory at the Sault St. Louis, whereof they have two thousand two hundred and thirty acres under cultivation; the remainder is in a primeval state of wilderness.

40

The Iroquois Indians of St. Regis possess the Township of Dundee in Lower Canada, and a reserve of about thirty thousand acres of land in Upper Canada, the greater part of which they have leased to actual settlers since the war. In the former location they cultivate about three hundred and sixty-one acres, and they have about five hundred acres of wood land and three thousand arpents unceded. At the Lake of the Two Mountains the Indians cultivate the following portions of land, by permission of the priests who enjoy the right of Seigniorship in that property; viz.:—The Nipissingue tribe, fifty acres, Algonquin tribe, sixty acres, and Iroquois tribe, one hundred and fifty acres.

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The Abenquois tribe of St. Francis are proprietors of a fief of nearly twelve thousand acres of land in the Seigniorship of St. Francis; They cultivate about two hundred and fifty acres and have reserved four hundred acres as wood land; the remainder of the fief is conceded to farmers. The heirs of about twenty families of this tribe hold eight thousand nine hundred acres of land, or thereabouts, in the Township of Durham, under letters patent, granted in the year 1805. The Abenquois Indians of Becancour have about fifty acres of land under cultivation near their village and they have about seventy acres of wood-land.

The Huron Indians of La Jeune Lorette cultivate seventy acres of land adjoining that village and they have forty square acres of land in St. Gabriel.

By an Order of Council dated 28th May, 1827, the Amalicate Indians obtained three thousand acres at the River Verte, but no patent has yet issued to them. . . .

20 The hunting ranges claimed by the Indians of Lower Canada include the whole of the unsurveyed lands; their extent is not known.

All which is most humbly and respectfully submitted to His Excellency the Governor-in-Chief.

D. C. NAPIER,
Secretary, Indian Affairs.

Quebec, Lower Canada, 29th May, 1837.

—
Sir F. B. Head, Bart., K. C. H. to Lord Glenelg.

GOVERNMENT HOUSE, Toronto, 18th July, 1837.

MY LORD,—I have the honour to acknowledge the receipt of your Lordship's despatch, No. 145, 30 dated 20th February, 1837, on the subject of the Indian tribes. . . .

The Lords Commissioners of His Majesty's Treasury have requested to be furnished with certain additional information; and, deeming it might be more satisfactory that their Lordships should receive this information from the different Superintendents rather than from myself, I desired their Lordships' queries to be forwarded to these gentlemen, whose replies I have the honour to transmit herewith,

George Ironside, Esq., 10th May, 1837.
William Jones, Esq., 12th May, 1837.
J. B. Clench, Esq., 12th May, 1837.
J. G. Anderson, Esq., 15th May, 1837.
Charles Anderson, Esq.,
James Winniott, Esq., 22nd May, 1837.

I have, etc.,

F. B. HEAD.

—
EXTRACTS FROM THE REPLIES REFERRED TO IN THE PRECEDING DESPATCH OF SIR F. B. HEAD.

40 *Reply of George Ironside, S.I.A., dated Amherstburg, 10th May, 1837.*

Query 2nd.—The pursuits of each tribe, with the number of fixed locations occupied by the Indians?

Answer.—The tribes under my superintendence are the Huron, Chippawa, Shawanor, and Munsey. The principal part of these Indians reside on the Huron Reserve during the spring and summer months, where they cultivate small farms; and towards the autumn the men usually repair to their hunting grounds on the American shore, from whence they return early in the spring for the purpose of making sugar and planting their corn.

There are a few Indians of the Chippawa tribe who are also under my superintendence, residing at Point Pelé; these support themselves almost entirely by hunting and fishing, and they claim the Point as having been reserved to them by Government.

Query 3rd.—The situation of the locations of the settled parties or of hunting grounds occupied by the other Indians?

Answer.—The Huron Reserve is situated on the east bank of the River Detroit in the Township 10 of Malden, Western District.

Point Pelé is in the Township of Mersea, about 35 miles below this.

Query 4th.—The extent of the lands set apart at the different locations for the use of the Indians, or the hunting ranges?

Answer.—The Huron Reserve extends six miles along the river, and runs seven miles back (p. 140).

Reply of William Jones, Assistant Superintendent Indian Department, dated Port Sarnia, 12th May, 1837.

Query 3rd.—The situation of the locations of the settled parties, or of hunting grounds occupied by the other Indians?

Answer.—The principal location of the settled Indians of this tribe is the upper Indian reserve, River St. Clair, situated in the south-west angle of the Township of Sarnia; but there is a considerable party of them settled on Walpole Island, at the Cheneil Ecarté, and another party 20 make their home at or near the mouth of the River Aux Sables. The chief hunting grounds of those Indians that occupy the upper reserve are the unsettled parts of the Townships of Sarnia and Moore, but they depend much on fishing; the hunting grounds of the Walpole or Cheneil Ecarté Indians are the unsettled parts of Sombra or Dover, and in the marshes of the islands, where they kill great numbers of muskrats, ducks, and other game; the channels abound also with fish; the Indians of the River Aux Sables hunt chiefly over the unsettled parts of the Canada Company's tract.

Query 4th.—The extent of the land set apart at the different locations for the use of the Indians, or of the hunting ranges?

Answer.—The upper Indian reserve, River St. Clair, contains about 9,000 acres; the lower 30 reserve in the Township of Moore extends one mile in front on the River St. Clair, but I do not know exactly how far it extends back; the several islands which the Indians claim may contain in all 4,000 or 5,000 acres, and the two small reserves near the River Aux Sables about 5,000 acres. (p. 141).

Reply of J. B. Clench, S.I.A., dated Colborne-on-Thames, 12th May, 1837.

Query 2nd.—The pursuit of each tribe, with the number of fixed locations occupied by the Indians?

Answer.—The Chippewas of the Thames possess a reservation in the Township of Caradoc, containing about 12,000 acres, and occupy 61 lots of 10 to 20 acres each; some have one, two, three, four, and five acres cleared; there are dwellings erected on some of the lots, and wigwams 40 on others.

The Munsees of the Thames may be termed squatters on the reserve owned by the Chippewas, where they have placed 47 log huts, and each taken a piece of land, and have from one to three acres under cultivation. The Chippewas protect them, and call them their grandfathers.

The Moravian Delawares possess a strip of land in the township of Zone. Their main reservation is situate on the opposite side of the river in the Township of Orford; the number of acres unknown to me. They have erected 57 log huts in their village, where they have 300 acres under cultivation. . . .

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Query 3rd.—The situation of the locations of the settled parties, or of hunting grounds occupied by the other Indians?

10 Answer.—The Chippewas of St. Clair are those who have acceded to the wishes of the Government, and located themselves on the bank of the river in the Township of Sarnia, and, with the Chippewas on Walpole Island, are the possessors of three reserves; two bounded by the River St. Clair, and the other at the mouth of the River Aux Sables, Western District.

Wyandotts, the Huron reserve in the Township of Malden, Western District.

The Indians generally hunt on the unsettled tracts which they formerly ceded to the Crown. (p. 142).

Reply of T. G. Anderson S.I.A., dated Coldwater, 15th May, 1837.

Query 4th.—The extent of the lands set apart at the different locations for the use of the Indians or of the hunting ranges?

20 Answer.—For the Indians of Coldwater and the Narrows a strip of land extending from the former to the latter place, containing about 9,000 acres, was reserved for them in 1830. This land had originally been purchased from those tribes, and I believe forms a part of that tract for which they now receive an annual payment of £1,200 from Government. The portage road from Lake Huron to Lake Simcoe, a distance of 14 miles runs through this tract or reserve, and the adjoining lots are fast filling up with emigrant settlers.

No particular allotment for hunting ranges has been made to these tribes.

The Manitoulin Island and the chain of islands on the north shore of Lake Huron have lately been appropriated as a place of resort for all Indians whose hunting grounds have failed, and who feel disposed to acquire the habits of civilized life.

30 The Suaking Indians (also Chippewas), not more than seventy in number, occupy a tract of superior land containing about two million of acres, three-fourths of which they last year ceded to the Crown (p. 145).

Reply of Captain Anderson, Rice Lake.

Query 3rd.—The situation of the locations of the settled parties, or of hunting grounds occupied by the other Indians?

Answer.—The Alnwick Indian settlement is situate on the south side of Rice Lake, about one and a half miles back from the lake. The Rice Lake Indian settlement is on the north side of the lake. The Mud Lake Indian settlement is situated on a point of land on that lake.

The hunting ground is the tract of country through to the Ottawa River.

40 Query 4th.—The extent of the lands set apart at the different locations for the use of the Indians, or of the hunting ranges.

Answer.—The extent of the Alnwick Indian settlement is about 3,000 acres, that of the Rice Lake about 1,200 acres, and that of the Mud Lake about 1,600 acres; the hunting ranges consist principally of deer, with which the country abounds. (p. 146).

Reply of James Winniott, S.I.A., dated Brantford, 22nd May, 1837.

Query 3rd.—The situation of the locations of the settled parties, or of hunting grounds occupied by the other Indians?

Answer.—The Six Nations are settled on both sides of the Grand River, from the Cayuga township line to the south line of the Hamilton road leading into Brantford. They have several small villages along their line of settlement, viz., Onondaga, Tuscarora, Salt Spring Settlement, Martin Settlement, Johnson Settlement, and Mohawk Village and Cayuga Village. Their hunting grounds are their reserves, and all the unoccupied Crown and clergy lands.

Query 4th.—The extent of the lands set apart at the different locations for the use of the Indians, or of the hunting ranges?

Answer.—The lands of the Six Nations have never been but partially surveyed. The amount of acres still retained by them supposed to be about 300,000 (p. 147).

—
Lord Glenelg to the Earl of Durham.

DOWNING STREET, 22nd August, 1838.

MY LORD,—You will perceive by a reference to the Archives of Upper and Lower Canada, 10 that the condition of the Indians in those provinces has engaged much of my attention. The correspondence noted in the margin will put you in possession of my general views on the subject, and of the specific instructions which I have given regarding some particular parts of it. Lord Gosford's despatch, No. 71, of the 13th July, 1837, transmitting the Report of the Committee of the Executive Council, reached me in last September. . . . The sentiments and suggestions of that report coincide, not only with my own views as explained in former despatches, but also with those of the persons in this country and in the Canadas who most interest themselves in the fate of the Indians. . . . With respect to the settlement of the Indians, I cannot but agree in the conclusion at which the Committee arrive—"Upon the whole, however, it would seem to the Committee to be more advisable to endeavor to form compact settlements of such as may be so disposed, upon 20 lands not very remote from older settlements, allowing, however, such as may be willing to take separate locations elsewhere to follow their own choice, and giving them agricultural implements, but no other description of presents." I need not follow in detail the interesting enumeration of the state and circumstances of the different tribes; but I must call your special attention to the recommendations which the Committee offer in relation to each separate tribe. You will be the more at liberty to shape your proceedings in this matter according to your own discretion in consequence of the provident directions given by Lord Gosford "to the Crown Land Department not to dispose of the tracts" proposed to be reserved for such tribes as appear to need an augmentation of their property, "until the pleasure of Her Majesty's Government be known on the subject." In regard to those Indians who are at present without any land, consisting princi- 30 pally of the Iroquois, Algonquin, and Nipissing tribes, I concur in the opinion of the Committee, that reservations should be made for them at the back of the present settlements, although of the extent of such reservations I am unable to form any opinion. A question, then, arises as to the manner in which these reservations should be secured to the Indians. In Upper Canada some insecurity, and consequent indisposition to the cultivation of the land, is said to have been felt by the Indians, by reason of their want of any legal title. Strong objections, however, exist to the conferring on them saleable titles, as being likely to expose them to the frauds and artifices of designing persons. To escape this difficulty, and at the same time to remove every reasonable feeling of suspicion on the part of the Indians, I have lately directed Sir G. Arthur, if he should see no insuperable objection to such a measure, to cause title deeds of their property to be drawn 40 up in writing, and recorded in the office of the Commissioner of Crown Lands, and to allow any person deputed on their behalf to assure themselves of the fact of such record. The deeds so recorded would be considered by the Government as equally binding with any other similar documents. And if the Indians should at any time desire to sell or exchange their lands, the Government would be ready to listen to their applications, and to take such course as might be most consistent with their welfare and feelings.

A similar measure ought to be adopted in the Lower Province with respect [to] the estates now belonging to the Indians; but in the case of the lands proposed to be reserved for their benefit it should be distinctly provided that the land so reserved shall be inalienable by the Indians without the express consent of the executive Government; and that it shall be in the power of the Government, should the Indians not cultivate the land, to remove them hereafter to other hunting grounds, when the advance of settlements may render such a measure expedient; but if they should cultivate it, then to contract the limits of their reservation to such an extent as would leave them the means of procuring an adequate and comfortable subsistence.

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I adopt the views of the Canada Commissioners and of the Committee as to the expediency of
10 granting garden lots to the Indians of Lorette; and I have to convey to you my authority for making such grants, either in the spot indicated by the Committee, or in any other quarter which may appear to you preferable, and which may at the same time be agreeable to the Indians themselves. . . .

I would in the same spirit deal with the question of lands for the Indians. However rigidly the rules respecting the disposal of lands may be observed in general, and it is necessary to observe them with the utmost strictness, yet if in any case it be for the clear advantage of the Indians to depart from those rules, the departure ought without hesitation to be sanctioned.
(pp. 5-9).

I have, etc.,

GLENELG.

20

Lord Glenelg to Sir George Arthur, Lieutenant-Governor of Upper Canada, 22 August, 1838.

[Extract.]

The first step to the real improvement of the Indians is to gain them from their wandering to a settled life; and for this purpose it is essential that they should have a sense of permanency in the locations assigned to them; that they should be attached to the soil by being taught to regard it as reserved for them and their children by the strongest securities.

Their locations, therefore, should be granted to them and their posterity forever by a grant under the Great Seal of the Province, on such terms and accompanied by such provisions as shall
30 render them unattackable by creditors, and inalienable by the tribe or any occupant without the joint concurrence of the Lieutenant-Governor for the time being, the principal chief of the settlement, and the resident missionary or missionaries.

THE INDIANS OF PRINCE EDWARD ISLAND.

Lord Glenelg to Sir C. A. FitzRoy.

DOWNING STREET, 2nd August, 1838.

SIR,—I transmit to you herewith the copy of a petition to Her Majesty from a Chief of the Micmac Tribe of Indians resident in Prince Edward Island, which has been placed in my hands by Mr. Cooper. Without fuller information than I possess on this subject it is impossible for me to advise Her Majesty as to the answer to be returned to this petition. I have therefore to request
40 that you will furnish me with a full and detailed report on the state of the Indians who may be resident in Prince Edward, pointing out the measures which, in your opinion, would most conduce to their well-being, and to the improvement of their moral and social condition.

(p. 168).

I have, etc.,

GLENELG.

Sir C. A. FitzRoy.

The Petition of the Chief of the Mic-Macs to Her Majesty, dated May, 1838.

That in former times our fathers were the owners of this Island, and fully enjoyed their acquired resources thereof until they were visited by people of French nation, who taught them religion and the duties of civilized life; after which, by a treaty entered into by that nation with your Majesty's Government, our people became British subjects; since which our tribe has been deprived of their hunting grounds, without receiving any remuneration for the loss they sustained. . . .

That our people . . . have made frequent applications to the House of Assembly of this Island to obtain a grant of land on which our people could permanently reside without fear of molestation, a favour, though earnestly sought, as yet denied us; there by our people are still compelled to wander 10 in the forest as an unprotected neglected race of the human species, unworthy to enjoy the patronage or favour of those vested with authority.

Therefore your petitioner humbly beseeches your Majesty to be graciously pleased to instruct your Majesty's representative in this Colony to procure for our people a permanent location on a tract of land in this our native Island, on which we may reside and cultivate without fear of removal or molestation; for which, as in duty bound, your Majesty's petitioner and people shall ever pray. (p. 168).

Sir C. A. FitzRoy to Lord Glenelg,

Dated GOVERNMENT HOUSE,

PRINCE EDWARD ISLAND,

20

8th October, 1838.

The Indians who reside on this Island form a very small portion of the once numerous Micmac tribe, the aboriginal inhabitants of that part of British North America out of which these lower Provinces have been formed, and of which tribe the remnant is now scattered over the Colonies of New Brunswick, Nova Scotia, Prince Edward Island, and the Island of Cape Breton. . . .

No provision appears to have been made, when the Island was originally so improvidently granted away, for the reservation of any land for the use of these poor people, nor has any application been made in their behalf since I arrived in the Colony; but humanity demands that some steps should be taken, in order that when the Island becomes fully settled, and when they will be of necessity precluded from rambling to and fro, as they are now suffered to do unmolested, through- 30 out the Island, they may have some spot secured to them where the small number which will in all probability then remain may be enabled to subsist. . . .

In corroboration of my views on this subject, I beg to transmit to your Lordship a copy of a letter which I have received from the Roman Catholic Bishop of Charlottetown, to whom, wishing to give your Lordship the best information in my power, I had applied for his opinion. (pp. 169, 170).

The Bishop of Charlottetown to the Lieutenant-Governor of Prince Edward Island.

RUSTICO, 5th October, 1838.

SIR,—I have the honor to acknowledge the receipt of your Excellency's letter of the first instant, accompanied with a copy of a petition to Her Majesty from the Chief of the Indians resi- 40 dent in this Island, in which letter your Excellency is pleased to desire me to give my opinion of the prayer of the said petition, and also to suggest any plan which I thought might possibly improve the condition of the petitioners. In order to comply with your Excellency's request, I

beg first to state that the Indians of this Island have often complained that they have been more unfavourably dealt with than their brothers in the neighbouring Provinces, inasmuch as they have never like them received grants of land whereon to settle themselves, and which those among them at least so inclined might cultivate and live by.

This grievance they from time to time ineffectually represented to Her Majesty's representatives. They applied some years since to the House of Assembly, with similar complaints; the then House seemed to take their case into favourable consideration, and made some steps towards making a purchase of Lennox Island for their use and benefit, but afterwards lost sight of it, for what I do not at this moment recollect.

10 That some place of rest should be provided for the Indian tribe of this Island, is, in my opinion, no more than what justice to the original owners of the soil imperatively dictates; and nothing also, in my opinion, could tend more effectually in the course of time to redeem the Indians from their wandering life than to locate them on lands to the culture of which necessity will compel them to have recourse for their subsistence, as the means heretofore used by them are now failing.

What quantity of land should be given to them I cannot take upon myself to say; but as to its situation, an isolated one would be, for many reasons, the most preferable; and though I never set much value on the purchasing of Lennox Island for their use, on account of its having comparatively little good land, yet I am aware that the Indians could not, without great difficulty, be
20 induced to part with it, from the circumstances of their living on it for many years past, and their having also there their church and burying ground.

Hoping that your Excellency will be pleased to excuse me in this long, imperfect, and hurried communication.

(pp. 170-1.)

I have, etc.,

W. D. M'DONALD.

Sir Charles A. FitzRoy,
&c., &c., &c.

30 REPRESENTATIONS TO THE SECRETARY OF STATE FROM MR. CHESHIRE, OR
ANY OTHER PARTIES, ON BEHALF OF THE SETTLERS ON THE GRAND
RIVER, IN UPPER CANADA; TOGETHER WITH CORRESPONDENCE ON THE
SUBJECT WITH THE GOVERNOR-GENERAL OF CANADA.

ORDERED BY THE HOUSE OF COMMONS TO BE PRINTED 20TH AUGUST, 1853.*

[Selections.]

Letter from D. Fraser, Esq., to the Right Honourable Sir John S. Pakington, Bart., M.P.

36, BLOOMSBURY-SQUARE, LONDON,

28 May, 1852.

SIR,—I take the earliest opportunity, on my arrival here from Canada, of laying before you the case of the settlers upon Indian lands on the Grand River in that colony, and in reference to
40 the proceedings which have been going on, in order to their removal off those lands, which they have occupied for many years, and upon which they have expended a great deal of labor and money, in the full belief, from written communications received by some of them from officers of the Government, that these lands had been surveyed and valued for the purposes of sale, and that the occupants would have the right of pre-exemption. The accompanying publication, which I

have the honour to forward herewith, gives a statement of the first proceedings against the settlers, embracing also one of the memorials which I addressed, as their counsel, to the Executive of Canada, and which sets forth most of the grounds of the opposition to the proceedings by the Commissioners to dispossess them. The Indian Department, and the management of all the Indian affairs in Canada, are now chiefly controlled by these Commissioners, but they do not belong to the class of officers paid by the Imperial Government for the purpose of over-looking and providing for the distribution of presents among the Indians, voted annually by the Imperial Parliament. Their business has grown out of the surrender and sale of wild lands in Canada, said surrender being made to Her Majesty and successors, in trust, for the purposes of sale, and to apply the proceeds to the benefit of the Indians. The greater part of these lands have been disposed of, 10 and are now mostly under high cultivation. The ostensible object of the Commissioners, in making these large reservations of wild lands, is to comply with the desire of the Indians, and to gratify them. It is a matter of public notoriety that the Indians are swayed in whatever manner their own officers, who command their purse, dictate. The Indians, or chiefs of them, never talking without money, although it should happen to be justly their own to supply their common wants; I do not hesitate to affirm that the real object of these reserves is to perpetuate the offices and salaries of these officers, indifferent to the injury done to the prosperity of their country, and the outrage upon their fellow-subjects' rights, under the high arm of the law. * *

I have, etc.,

DOUGLAS FRASER. 20

*Governor the Right Honourable the Earl of Elgin and Kincardine to the Right Honourable
Sir John S. Pakington, Bart., M.P.*

GOVERNMENT HOUSE, QUEBEC,
10 July, 1852.

SIR,—I have had the honour to receive your despatch No. 34, of the 4th June, covering the copy of a letter with enclosures, from Mr. Douglas Fraser, having reference to the case of squatters upon Indian lands on the Grand River, and directing me to furnish a report upon the allegations contained in those papers.

2. As the most satisfactory mode of complying with this instruction, I enclose the copy of a memorial lately addressed to the Governor-General in Council on the same subject, by a considerable number of very respectable petitioners, and of the reply to that memorial, by the Superintendent-General of Indian affairs. * *

3. I therefore sincerely trust, Sir, that on the perusal of these papers you will be satisfied that the persons on whose behalf Mr. Fraser has appealed to you, have no claim to support or countenance from Her Majesty's Imperial Government, so long as they maintain their present attitude of resistance to law and Indian rights. A distinct intimation of your judgment to this effect will have, I doubt not, considerable influence in inducing them to relieve the Government from the painful necessity of having recourse to severer measures, by retiring spontaneously from the Indian reserve; a course which, as the statement herewith enclosed shows, was adopted long ago by the large majority of the original squatters. 40

I have, etc.,

ELGIN & KINCARDINE.

Reply of the Superintendent-General of Indian Affairs, referred to in the preceding despatch of the Earl of Elgin.

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INDIAN DEPARTMENT, QUEBEC, 10 July, 1851.

SIR,—I am directed by the Governor-General to acknowledge the receipt of a numerously signed memorial, headed by you, and addressed to his Excellency, complaining of the course pursued towards the squatters on the Grand River Indian Reserve, and praying that further proceedings against them may be stayed, and an impartial inquiry made into the whole question. * *

Apart from these considerations of general policy, it is to be observed that the Six Nation Indians have strong and peculiar claims to the protection of the Government, and that their property is not held in virtue of undefined territorial right as Indians, but upon a different and a far more solid tenure. Owing to their steadfast adherence to British rule during the revolutionary struggle, they forfeited large and valuable possessions in the United States, and the Grand River tract, of which the present reserve is but a very small remnant, and which extended from the shores of Lake Erie to the neighbourhood of Galt, was conferred upon them by the Crown, not only as a merited reward for their gallant services in the field, but as a compensation for the actual losses which they had sustained in the conflict. It is manifest, therefore, that the Government is bound by every consideration of honour, as well as of justice and humanity, to secure them, to the best of its ability, in the undisturbed enjoyment of their property. * *

An Order in Council of the 27th November, 1840, recommended that in consideration of the injury inflicted on their interests, and of the difficulties occasioned by the dispersion of the Indians over the whole extent of the unsurrendered land, the Government should exert its influence to persuade them to settle as a concentrated body in such part of the tract as they might select for their permanent residence, and to cede the residue for sale. Lastly, it emphatically disclaimed any intention, however remote, of inducing the Indians to remove from the Grand River settlement, and negotiations were accordingly opened with the Indians, but for various reasons, and more especially from their disinclination to adopt the views of the Government with reference to the dimension of the future reserve, no final decision was come to until October, 1843. On the 4th of that month, a very elaborate Order in Council was passed, which forms the ground-work on which the subsequent proceedings in reference to the management of the land affairs have been based. While regretting that the Indians would not be satisfied with a smaller reserve, it advises that their request be acceded to, and thus describes the tract to be set apart for their use: "All the lands on the south side of Grand River, with the exception of a tier of lots on the plank road from Hamilton to Port Dover, a distance of more than 20 miles along the river." Also the church lot at Tuscarora, and certain other detailed pieces of lands. * *

These communications, [the chief superintendent's letters,] called upon the Indians in very urgent and peremptory terms, to empower the Government to dispose, for their exclusive benefit and advantage, either by lease or otherwise, of all available lands, excepting a reservation of 20,000 acres, and lots then in the occupation of individual Indians, the Government coming under an obligation to protect their property from trespass and injury, and "the selection of that reservation to be deferred until after a general survey of the tract, when the position most advantageous to the general interests and peculiar wants of the Indians can be more judiciously selected." This agreement having created great dissatisfaction, and been repudiated by the large majority of the chiefs and Indians, never received the formal sanction of the Government.

The memorialists will not fail to have perceived throughout these transactions the scrupulous respect which was paid by the Government to the rights of the Indians; and that even when differing from them in opinion, with reference to the precise extent of their proposed reserve, it felt constrained to yield to their ascertained wishes. * *

A number of the squatters, headed as it would appear by Mr. Cheshire, who having, by his own showing, not come into the tract until after the publication of the Chief Superintendent's

notice of the 22nd January, 1844, was debarred, according to the rule laid down by Earl Cathcart, from any claim to compensation, refused to quit the reserve. It became necessary, therefore, to proceed against them as trespassers. * * * In the year 1847 the squatters petitioned the Legislative Assembly on the subject of their claims and grievances. The report of a Committee which was appointed to investigate the circumstances of the case, declared that the "Petitioners were dispossessed by due course of law of the lands they occupied, and that such lands are in fact Indian Reserves." * *

But there are other classes of squatters now on the tract still more unworthy of consideration. Of 60 self-styled settlers, who signed a petition to the Governor-General in 1849, nine had returned to the reserve after having actually received compensation, and 21, encouraged no doubt by the 10 examples before them, of successful resistance to the law, had entered upon the lands since the date of Mr. Thorburn's inspection, and there can be little doubt that intruders of the latter description, form a considerable proportion of the present white occupants of the reserve. * *

I have, etc.,

R. BRUCE,

Superintendent-General.

Sir Allan N. Macnab, M.P.P.

[NOTE.—See, here, the Correspondence between Governors Douglass and Musgrave, of British Columbia, and the Secretary of State for the Colonies, 1859-1861, printed in the sub-section, *post*, relating to British Columbia.]

TRANSFER OF RUPERT'S LAND AND THE NORTH-WESTERN TERRITORY TO 20 CANADA.

*The Secretary of State for the Colonies to the Governor-General of Canada.**

DOWNING STREET,

10th April, 1869.

SIR,—The proprietors of the Hudson's Bay Company have considered at a special meeting the terms on which they have been invited to transfer their territorial rights to the Dominion of Canada, and I enclose the copy of a letter addressed to me by Sir Stafford Northcote, from which you will perceive that those terms have been acceded to.

You will observe that the Governor and Committee of the Company are authorized to concur in all such measures as may be found necessary for effecting this transfer, and for securing to the 30 Company all the rights and reservations to which they will be entitled, provided that the acceptance of the terms by the Government and Parliament of Canada is duly signified to them within six months.

I trust that this acceptance may be confidently anticipated, and that by it an opening will be made for extending the benefits of a regular Government to those British subjects who at present occupy the Company's territory; for settling the tracts of fertile land which lie in the centre of the continent; and for the consolidation of British North America, under one Central Government.

On one point that has not hitherto been touched upon, I am anxious to express to you the expectations of Her Majesty's Government. They believe that whatever may have been the 40 policy of the Company, and the effect of their chartered rights upon the progress of settlement, the Indian tribes who form the existing population of this part of America have profited by the Company's rule.

They have been protected from some of the vices of civilization; they have been taught to some appreciable extent to respect the laws and rely on the justice of the white man; and they do not appear to have suffered from any causes of extinction beyond those which are inseparable from their habits and their climate. I am sure that your Government will not forget the care which is due to those who must soon be exposed to new dangers, and in the course of settlement be dispossessed of the lands which they are used to enjoy as their own, or be confined within unwontedly narrow limits.

This question had not escaped my notice while framing the proposals which I laid before the Canadian delegates and the Governor of the Hudson's Bay Company. I did not, however, then
10 allude to it, because I felt the difficulty of insisting on any definite conditions without the possibility of foreseeing the circumstances under which those conditions would be applied, and because it appeared to me wiser and more expedient to rely on the sense of duty and responsibility belonging to the Government and people of such a country as Canada.

That Government I believe has never sought to evade its obligations to those whose uncertain rights and rude means of living are contracted by the advance of civilized men. I am sure that they will not do so in the present case, but that the old inhabitants of the country will be treated with such forethought and consideration as may preserve them from the dangers of the approaching change, and satisfy them of the friendly interest which their new governors feel in their welfare.

With the expression of this hope, I will close my despatch, merely repeating my sincere
20 desire that the annexation of the great territory may be speedily accomplished, and may bring to the Dominion all the advantages which the statesmen of Canada not unreasonably anticipate.

I have, etc.,

GRANVILLE.

Governor the Right Honorable Sir John Young, Baronet,
G. C. B., etc. etc., etc.

*Extract from Address to Her Majesty from the Senate and House of Commons of Canada,
December, 1867.**

We do therefore most humbly pray that your Majesty will be most graciously pleased, by and with the advice of your Most Honourable Privy Council, to unite Rupert's Land and the North-
30 Western Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government; and we most humbly beg to express to your Majesty that we are willing to assume the duties and obligations of government and legislation as regards these territories.

And furthermore, that upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement, will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

Extract from Resolutions of the Senate and House of Commons of Canada of 28th May, 1869.†

Resolved,—That the Senate will be ready to concur with the House of Commons in an
40 Address to Her Majesty, that she will be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the 146th clause of the British North America Act, 1867, and the provisions of the Imperial Act, 31 & 32 Vict., cap. 105, to unite Rupert's Land, on the terms and conditions expressed in the foregoing Resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the Joint Address of the Senate and the House of Commons of Canada, adopted during the first session of the first Parliament of Canada and hereinbefore referred to.

* Sess. Papers, Ont., 1882, No. 69, p. 128.

† *Ib.*, p. 128.

Resolved,—That upon the transference of the territories in question to the Canadian Government, it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.

*Extract from Imperial Order in Council respecting Rupert's Land and the North-Western Territory, 1870.**

At the Court at Windsor,
The 23rd day of June, 1870.

14. Any claims of Indians to compensation for lands required for purposes of settlement, shall 10
be disposed of by the Canadian Government in communication with the Imperial Government;
and the Company shall be relieved of all responsibility in respect of them.

IMPERIAL ORDER IN COUNCIL AS TO THE WESTERN AND NORTH-WESTERN
BOUNDARIES OF ONTARIO.†

At the Court at Osborne House, Isle of Wight, the 11th day of August, 1884.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

HIS ROYAL HIGHNESS THE PRINCE OF WALES.

Lord President,
Lord Steward,
Earl Granville,

Earl of Northbrook,
Sir T. Erskine May,
Sir A. Cooper Key.

20

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council, dated the 22nd of July last past, in the words following, viz. :—

“Your Majesty having been pleased by your Order in Council of the 26th June, 1884, to refer unto this Committee the humble petition of Oliver Mowat, your Majesty's Attorney-General for the Province of Ontario, as representing that Province, and of James Andrews Miller, your Majesty's Attorney-General for the Province of Manitoba, as representing that Province, in the matter of the boundary between the Provinces of Ontario and Manitoba, in the Dominion of Canada, between the Province of Ontario, of the one part, and the Province of Manitoba, of the other part, setting forth that a question has arisen, and is in dispute, between the Provinces of 30
Ontario and Manitoba respecting the western boundary of the Province of Ontario, and it has been agreed between those Provinces to submit such question to your Majesty in Council for determination; the following Special Case has accordingly been agreed upon between the petitioners as representing the two Provinces aforesaid :—

“‘SPECIAL CASE.

“‘The Province of Ontario claims that the western boundary of that Province is either (1) the meridian of the most north-westerly-angle of the Lake of the Woods, as described in a certain award made on the 3rd August, 1878, by the Honourable Chief Justice Harrison, Sir Edward Thornton and Sir Francis Hincks, or (2) is a line west of that point.

“‘The Province of Manitoba claims that the boundary between that Province and the 40
Province of Ontario is (1) the meridian of the confluence of the Ohio and Mississippi Rivers, or

* Sess. Papers, Ont., 1882, No. 69, p. 200. † Sess. Papers, Ont., 1885, No. 8, p. 42; Sess. Papers, Can., 1885, No. 123, p. 2.

(2) is that portion of the height of land dividing the waters which flow into Hudson's Bay from those which empty into the valley of the Great Lakes, and lying to the west of the said meridian line.

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*Imperial
Correspon-
dence and
Documents.*

“It has been agreed to refer the matter to the Judicial Committee of Her Majesty's Privy Council, and an Appendix has been prepared containing the materials agreed to be submitted with this Case for the adjudication of the dispute; each and every of the particulars in the said Appendix is submitted *quantum valeat*, and not otherwise.

10 “In addition to the particulars set forth in the Appendix, any historical or other matter may be adduced which, in the opinion of either party, may be of importance to the contention of such party, and (subject to any rule or direction of the Judicial Committee in that behalf) such additional matter is to be printed as a separate Appendix by the party adducing the same, and copies are to be furnished at least ten days before the argument.

“The book known as the Book of Arbitration Documents may be referred to in the argument for the purpose of shewing in part what materials were before the Arbitrators.

“It is agreed that in the discussion before the Judicial Committee of the Privy Council reference may be made to any evidence of which Judicial notice may be taken, or which (having regard to the nature of the case and the parties to it) the Privy Council may think material and proper to be considered, whether the same is or is not contained in the printed papers.

“The questions submitted to the Privy Council are the following:—

20 “(1) Whether the Award is or is not, under all the circumstances, binding?

“(2) In case the Award is held not to settle the boundary in question, then what, on the evidence, is the true boundary between the said Provinces?

“(3) Whether, in case legislation is needed to make the decision on this case binding or effectual, Acts passed by the Parliament of Canada and the Provincial Legislatures of Ontario and Manitoba, in connection with the Imperial Act, 34 & 35 Vict., cap. 28, or otherwise, will be sufficient, or whether a new Imperial Act for the purpose will be necessary.

“O. MOWAT,

“*Attorney-General of Ontario.*

“JAMES A. MILLER,

“*Attorney-General of Manitoba.*”

30

“And humbly praying that Your Majesty in Council will be pleased to take the said Special Case into consideration, and that the said Special Case may be referred by Your Majesty to the Lords of the Judicial Committee of the Privy Council to report thereon to Your Majesty at the Board, and that such Order may be made thereupon as to Your Majesty shall seem meet:

“The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, have taken the aid humble Petition and Special Case into consideration, and having heard Counsel for the Province of Ontario, and also for the Province of Manitoba, their Lordships do this day agree humbly to report to Your Majesty as their opinion:—

40 “1. That legislation by the Dominion of Canada as well as by the Province of Ontario was necessary to give binding effect, as against the Dominion and the Province, to the award of the 3rd August, 1878, and that as no such legislation has taken place, the award is not binding.

“2. That, nevertheless, their Lordships find so much of the boundary lines laid down by that award as relate to the territory now in dispute between the Province of Ontario and the Province of Manitoba to be substantially correct and in accordance with the conclusions which their Lordships have drawn from the evidence laid before them.

“That upon the evidence, their Lordships find the true boundary between the western part of the Province of Ontario and the south-eastern part of the Province of Manitoba to be so much

of a line drawn to the Lake of the Woods, through the waters, eastward of that lake and west of Long Lake, which divide British North America from the territory of the United States, and thence through the Lake of the Woods to the most north-western point of that lake, as runs northward from the United States boundary, and from the most north-western point of the Lake of the Woods a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul, or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg; and their Lordships find the true boundary between the same two Provinces, to the north of Ontario and to the south of Manitoba, proceeding eastward from the point at which the before mentioned line strikes the middle line of the course of the river last aforesaid, to be along the middle line of the course of 10 the same river (whether called by the name of the English River or, as to the part below the confluence, by the name of the River Winnipeg) up to Lake Seul, or the Lonely Lake, and thence along the middle line of Lake Seul, or the Lonely Lake, to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves, until it reaches a line drawn due north from the confluence of the Rivers Mississippi and Ohio, which forms the boundary eastward of the Province of Manitoba.

“3. That without expressing an opinion as to the sufficiency or otherwise of concurrent legislation of the Provinces of Ontario and Manitoba, and of the Dominion of Canada (if such 20 legislation should take place), their Lordships think it desirable and most expedient that an Imperial Act of Parliament should be passed to make this decision binding and effectual.”

HER MAJESTY, having taken the said Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof and to order, as it is hereby ordered, that the same be punctually observed, obeyed, and carried into execution. Whereof the Governor-General of the Dominion of Canada, the Lieutenant-Governor of the Province of Ontario, the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

C. L. PEEL.

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GOVERNOR BRADFORD AS TO THE REASONS FOR THE REMOVAL OF THE PILGRIM FATHERS TO
THE NEW WORLD.

(From Governor Bradford's History, 1617.)*

4. Lastly, (and which was not the least,) a great hope and inward zeal they had of laying some good foundation, or at least to make some way thereunto, for the propagating and advancing the Gospel of the kingdom of Christ in these remote parts of the world ; yea, though they should
10 be but as stepping-stones unto others for performing of so great work.

These, and some other like reasons, moved them to undertake this resolution of their removal the which they afterward prosecuted with so great difficulties, as by the sequel will appear.

The place they had thoughts on were some of those unpeopled countries of America, which are fruitful and fit for habitation, being devoid of all civil inhabitants, where there are only salvage and brutish people, which range up and down little otherwise than the wild beasts.

REASONS AND CONSIDERATIONS TOUCHING THE LAWFULNESS OF REMOVING OUT OF ENGLAND INTO
THE PARTS OF AMERICA—THE RIGHT TO LIVE IN THE HEATHEN'S COUNTRY,—1621.

By Robert Cushman, Associate and Agent of the Pilgrim Fathers.†

Forasmuch as many exceptions are daily made against the going into and inhabiting of
20 foreign desert places, to the hindrances of plantations abroad, and the increase of distractions at home, it is not amiss that some which have been ear-witnesses of the exceptions made, and are either agents or abettors of such removals and plantations do seek to give content to the world in all things that possibly they can.

And although the most of the opposites are such as either dream of raising their fortunes here to that than which there is nothing more unlike, or such as affecting their home-born country so vehemently, as that they had rather, with all their friends, beg, yea, starve in it, than undergo a little difficulty in seeking abroad ; yet are there some who, out of doubt in tenderness of conscience, and fear to offend God by running before they are called, are straightened and do straighten others from going to foreign plantations.

30 For whose cause especially I have been drawn, out of my good affection to them, to publish some reasons that might give them content and satisfaction, and also stay and stop the wilful and witty caviller

Some will say, what right have I to go to live in the heathens' country ?

Letting pass the ancient discoveries, contracts and agreements which our Englishmen have long since made in those parts, together with the acknowledgment of the histories and chronicles

* Young's Chronicles of Plymouth, pp. 47, 48.

† *Ibid.*, pp. 239-242. See an account of the author, p. 249 (*Note*) of the same collection.

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of other nations, who possess the land of America from the Cape de Florida unto the Bay of Canada (which is south and north three hundred leagues and upwards, and east and west further than hath yet been discovered) is proper to the King of England; yet, letting that pass, lest I be thought to meddle further than it concerns me, or further than I have discerning, I will mention such things as are within my reach, knowledge, sight and practice, since I have travailed in these affairs.

And first, seeing we daily pray for the conversion of the heathens, we must consider whether there be not some ordinary means and course for us to take to convert them, or whether prayer for them be only referred to God's extraordinary work from heaven. Now it seemeth unto me that we ought also to endeavor and use the means to convert them; and the means cannot be used unless we go to them or they come to us. To us they cannot come, our land is full; to them we may go, their land is empty. 10

This then is sufficient reason to prove our going thither to live, lawful. Their land is spacious and void, and there are few, and do but run over the grass, as do also the foxes and wild beasts. They are not industrious, neither have art, science, skill or faculty to use either the land or commodities of it, but all spoils, rots, and is marred for want of manuring, gathering, ordering, etc. As the ancient patriarchs, therefore, removed from straighter places into more roomy, where the land lay idle and waste, and none used it, though there dwelt inhabitants by them, as Gen. XIII, 6, 11, 12, and XXXIV, 21, and XLI, 20; so is it lawful now to take a land which none useth and make use of it. 20

And as it is a common land, or unused and undressed country, so we have it by common consent, composition and agreement,* which agreement is double. First the imperial Governor, Massasoit, whose circuits, in likelihood, are larger than England and Scotland, hath acknowledged the King's Majesty of England to be his master and commander, and that once in my hearing, yea, and in writing, under his hand, to Captain Standish, both he and many other kings which are under him, as Pamet, Nauset, Cummaquid, Narrowhiggonset, Namaschet, etc., with divers others that dwell about the Bays of Patuxet and Massachusetts. Neither hath this been accomplished by threats and blows, or shaking of sword and sound of trumpet; for as our faculty that way is small, and our strength less, so our warring with them is after another manner, namely, by friendly usage, love, peace, honest and just carriages, good counsel, etc., that so we and they may not only live in peace in that land, and they yield subjection to an earthly prince, but that as voluntaries they may be persuaded at length to embrace the Prince of Peace, Christ Jesus, and rest in peace with Him forever. 30

Secondly, this composition is also more particular and applicatory, as touching ourselves there inhabiting. The emperor, by a joint consent, hath promised and appointed us to live at peace where we will in all his dominions, taking what place we will, and bringing as many people as we will, and that for two causes. First, because we are the servants of James, King of England, whose the land (as he confesseth it) is. Secondly, because he hath found us just, honest, kind and peaceable, and so loves our company. Yea, and that in these things there is no dissimulation on his part, nor fear of breach (except our security engender in them some unthought of treachery, or our uncivility provoke them to anger) is most plain in other relations, which show that the things they did were more out of love than out of fear. 40

It being then, first, a vast and empty chaos; secondly, acknowledged the right of our sovereign king; thirdly, by a peaceable composition in part possessed of divers of his loving subjects, I see not who can doubt or call in question the lawfulness of inhabiting or dwelling there; but that it may be as lawful for such as are not tied upon some special occasion here, to live there as well as here. Yea, and as the enterprise is weighty and difficult, so the honour is more worthy, to plant a rude wilderness, to enlarge the honour and fame of our dread sovereign, but chiefly to display the efficacy and power of the Gospel, both in zealous preaching, professing, and wise walking under it, before the faces of these poor blind infidels. 50

* This is to be considered as respecting New England, and the territories about the plantations. [Author's Note].

DEALINGS OF THE EARLY GOVERNMENTS OF MASSACHUSETTS WITH THE INDIANS.

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*Instructions of the New England Company to Governor Endicott of Massachusetts Bay, 17th April, 1629.**

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If any of the savages pretend right of inheritance to all or any part of the lands granted in our Patent, we pray you endeavor to purchase their title, that we may avoid the least scruple of intrusion.

The Company's Further Instructions to Governor Endicott, 28th May, 1629.†

Whereas in our last we advised you to make composition with such of the savages as did pretend any title or lay claim to any of the land within the territories granted to us by His Majesty's charter, we pray you now be careful to discover and find out all such pretenders, and by advice of the Council there to make such reasonable composition with them as may free us and yourselves from any scruple of intrusion; and to this purpose, if it might be conveniently done, to compound and conclude with them all, or as many as you can, at one time, not doubting, but by your discreet ordering of this business, the natives will be willing to treat and compound with you upon very easy conditions.

*The Historian's comments—Despatch from the Government of the Province to Lord Shelburne.**

These instructions were literally and scrupulously observed by the first settlers of Massachusetts as well as of Plymouth. They made conscience of paying the natives to their satisfaction for all parts of the territory which were not depopulated, or deserted, and left without a claimant. The Government of the Province, writing home to Lord Shelburne, the Secretary for the Colonies, in 1767, say, "We are satisfied there are no complaints against this Province by His Majesty's agents for Indian affairs; and that no settlement has been made or attempted by us without proper authority. It is with much pleasure we remind Your Excellency and inform the world, that greater care was taken of the Indians by our pious ancestors during the old charter, and by this Government under the new, even to this day, than was ever required of us by the British Government. Nothing has been omitted by the province since 1633 to this day, which justice or humanity required, within this jurisdiction. We glory in the conduct of our Government, we make our boast of it as unexampled; and we have been free and spontaneous on our part. We assure Your Excellency that being animated by the same principles with our ancestors, we shall do everything which duty to the King, and the maxims of good policy, of justice and equity to the Indians can require."

Doctor Cotton Mather on the Relations of the Early Settlers of Massachusetts with the Indians, [1630.]‡

Another thing that gave them no little exercise was the fear of the Indians, by whom they were sometimes alarmed. But this fear was wonderfully prevented, not only by intestine wars happening then to fall out among those barbarians, but chiefly by the small-pox, which proved a great plague unto them and particularly to one of the Princes in the Massachusetts-Bay, who yet seemed hopefully to be Christianized before he died. This distemper getting in, I know not how, among them, swept them away with a most prodigious desolation, insomuch that although the English gave them all the assistances of humanity in their calamities, yet there was, it may be, not one in ten among them left alive; of those few that lived, many also fled from the infection, leaving the country a mere golgotha of unburied carcasses; and as for the rest, the English treated them with all the civility imaginable; among the instances of which civility, let this be reckoned for one, that notwithstanding the Patent which they had for the country, they fairly purchased of the natives the several tracts of land which they afterwards possessed.

* Young's Chronicles of the First Planters of the Colony of Massachusetts Bay, from 1623 to 1636, pp. 159-160.

† *Ibid.*, p. 176.

‡ *Magnalia Christi Americana*, ed. 1702, p. 22.

*Teaching of Roger Williams respecting the Rights of the Indians.**JOINT
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In 1635, he was banished from the colony of Massachusetts Bay by a solemn sentence of the General Court, for teaching:—

“ 1st. That we have not our land by Patent from the King, but that the natives are the true owners of it, and that we ought to repent of such receiving it by Patent.”

CONTROVERSY BETWEEN THE GOVERNMENTS OF NEW HAVEN AND CONNECTICUT ON IMPENDING EXTENSION OF JURISDICTION OF CONNECTICUT OVER NEW HAVEN, 1663-4.†

New Haven's Case Stated.

1 That the first beginners of these plantations by the sea-side in these western parts of New England, being engaged to sundry friends in London and in other places about London, (who pur- 10
posed to plant, some with them in the same town, and others as near to them as they might) to provide for themselves some convenient places by the sea-side, arrived at Boston in the Massa-
chusetts, (having a special right in their patent, two of them being joint purchasers of it with others, and one of them a patentee and one of the assistants chosen for the New England Com-
pany in London,) where they abode all the winter following, but not finding there a place suitable to their purpose, were persuaded to view these parts, which those that viewed approved, and before
their removal, finding that no English were planted in any place from the Fort (called Say Brook) to the Dutch, purposed to purchase of the Indians, the natural proprietors of those lands, that
whole tract of land by the sea coast for themselves and those that should come to them, which they also signified to their friends at Hartford, in Connecticut Colony, and desired that some fit men from 20
thence might be employed in that business, at their proper cost and charges who wrote to them. Unto which letter having received a satisfying answer, they acquainted the court of magistrates of
Massachusetts Colony with their purpose to remove and the grounds of it; and, with their consent, began a plantation in a place situated by the sea, called by the Indians Quillipiack, which they did
purchase of the Indians, the true proprietors thereof, for themselves and their posterity, and have quietly possessed the same about six and twenty years, and have buried great estates in build-
ings, fencings, clearing the ground, and in all sorts of husbandry, without any help from Connecti-
cut or dependance upon them. And by voluntary consent among themselves, they settled a Civil Court and Government among themselves, upon such fundamentals as were established in Massa-
chusetts by allowance of their patent, whereof the then Governor of the Bay, the Right Worship- 30
ful Mr. Winthrop, sent us a copy to improve for our best advantage. These fundamentals all the inhabitants of the said Quillipiack approved, and bound themselves to submit unto and maintain,
and chose Theophilus Eaton, Esq., to be their governor, with as good right as Connecticut settled their government among themselves, and continued it above twenty years without patent.

Answer of Connecticut.

It is a difficult undertaking to maintain your Indian purchase from the right owner thereof, or to plead a better right than Connecticut who had the right of conquest, and as added to conquest a deed of gift from the great sachem Sowheage, and under both those rights possessing, and by the Court of Connecticut allowing you a plantation right in that place, and then calling home their agent that possessed the same, we may well question the foundation of your Government, unless 40
you can find and show a Connecticut court record allowing the same.

And for the title of a colony, it is not a title of honour properly, neither doth it imply government; the basis of our government is not that empty title, but as subjects of his royal majesty, by his abundant grace, we are created and made a body politic and corporate with power and privileges, and the extent of our corporation ordered to be all that part of His Majesty's dominions in N. E.,

* Green's History of Rhode Island, p. 6. † New Haven Col. Rec., 1653-65, pp. 517, 518, 531-2.

bounded as our charter expresseth, and intrusting us with the care of all the plantations therein, and the government of all the people thereof; and because it is a duty incumbent upon us to be faithful to our trust, we do declare and claim (not with a flourish of empty words) as under our government, all those plantations which you possess and have formerly governed, as peculiarly belonging to our corporation, requiring your subjection to our order and laws in observance to the order and appointment of our Royal sovereign and yours.

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COUNSEL'S OPINION CONCERNING COL. NICOLLS' PATENT AND INDIAN PURCHASES, [1675.]*

The land called New York and other parts in America now called New East Jersey, was first discovered by Sebastian Cabot a subject of England in King Henry VII. time, about 180 years since, and afterwards further by Sir Walter Raleigh in the reign of Queen Elizabeth, and after him
10 by Henry Hudson in the reign of King James, and also by Lord Delaware, and begun to be planted in the year 1614 by Dutch and English. The Dutch placed a governor there, but upon complaint being made by the King of England to the States of Holland, the said States disowned the business and declared it was only a private undertaking of the West India Company of Amsterdam, so the King of England granted a commission to Sir Edward Layden† to plant these parts, calling them New Albion, and the Dutch submitted themselves to the English Government, but in King Charles I. reign the troubles in England breaking forth, the English not minding to promote these new plantations because of the troubles, the Dutch pretended to establish a Government there again until
20 1664, who the same year granted it to Lord Berckley and Sir George Cartrett. Between the Duke's grant to Lord Berckley and Sir George Cartrett and notice thereof in America, several persons took grants of lands from Col. Nicolls, the Duke's Governor. Several of the planters have purchased of the Indians but refuse to pay any acknowledgment to the King's grantees.

Q. 1st.—Whether the grants made by Col. Nicolls are good against the assigns of Lord Berckley and Sir George Cartrett.

Q. 2nd.—Whether the grant from the Indians be sufficient to any planter without a grant from the King or his assignees.

Answer 1st.—To the first Question. The authority by which Col. Nicolls acted determined by the Duke's grant to Lord Berckly and Sir George Cartrett, and all grants made by him afterwards (though according to the commission) are void, for the delegated power which Col. Nicolls
30 had of making grants of the land could last no longer than His Majesty's interest who gave him the power, and the having, or not having, notice of the Duke's grant to Lord Berckly and Sir George Cartrett makes no difference in the Law, but the want of notice makes it great equity that the present proprietors should confirm such grants to the people who will submit to the concessions and payments of the present proprietors' quit rents, otherwise they may look upon them as disseizors and treat them as such.

Answer to the second Question.—By the law of nations, if any people make discovery of any country of barbarians, the Prince of the people who make the discovery hath the right of the soil and government of that place and no people can plant there without the consent of the Prince or of
40 such persons to whom his right is devolved and conveyed. The practice of all plantations has been according to this and no people have been suffered to take up land but by the consent and license of the government or proprietors under the Prince's title whose people made the first discovery, and upon their submission to the laws of the place and contribution to the public charge of the place and the payment of such rent and other value for the soil as the proprietors for the

* Doc. Hist., N. Y., vol. 13, p. 486. † Ployden, Knight, Earl-Palatine of New Albion. See N. Y. Col. Doc. I. 289.

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time being require; and though it hath been and still is the usual practice of all proprietors to give their Indians some recompense for their land and so seem to purchase it of them, yet that is not done for want of sufficient title from the King or Prince who hath the right of discovery but out of prudence and christian charity lest otherwise the Indians might have destroyed the first planters (who are usually too few to defend themselves) or refuse all commerce and conversation with the planters and thereby all hopes of converting them to the Christian faith would be lost. In this the common law of England and the civil law doth agree, and if any planter be refractory and will insist on his Indian purchase and not submit to this law of plantations the proprietors who have the title under the Prince may deny them the benefit of the Law and prohibit commerce with them as opposers and enemies to the public peace. Besides, it is observable that no man can go from England to plant in an English plantation without leave from the Government, and therefore in all patents and grants of plantations from the King, a particular license to carry over planters is inserted, which power in prohibiting is now in the proprietors as the King's assigns, and therefore though some planters have purchased from the Indians, yet, having done so without the consent of the proprietors for the time being, the title is good against the Indians but not against the proprietors without a confirmation from them upon the usual terms of other plantations. 10

WM. LECK,
WM. WILLIAMS,
JO. HOLLES,
JOHN HOYLE,

JO. HOLT,
WM. THOMPSON,
RICHD. WALLOP,
HEN. POLLEXFEN.

20

ACT OF THE DOMINION OF NEW ENGLAND, 1ST JUNE, 1687.*

An Act for the Regulating of the Purchase of Lands from Indians.

Forasmuch as private persons tampering and dealing with Indians about sale and conveyance of lands without the license and knowledge of authority, hath been found of so great a prejudice and inconvenience that this as well as all other Governments and Colonies have by law forbid the same; notwithstanding the which, sundry persons have and do daily presume to tamper and deal with Indians about the purchase of new lands, and for confirmation of lands formerly pretended to be purchased, and from them take and receive deeds of sale, gifts, mortgages, conveyances, leases, contracts or confirmations, without any leave or license for the same, to the apparent prejudice of his Majesty's ancient right and interest, and disturbance of the Government: 30

Be it therefore enacted by the Governor and Council, and it is hereby enacted by the authority of the same, That from henceforth no person or persons whatsoever do presume to tamper or trade with any Indian or Indians about the purchase, sale or confirmation of any land or lands whatsoever within this His Majesty's territory and Dominion of New England, nor from them nor any of them take, or receive any deed of sale, gift, mortgage, conveyance, lease, contract or confirmation whatsoever, without leave or license first had and obtained from the Governor for the time being, under his hand and seal, on penalty of the forfeiture of twenty pounds for every acre of land that any person or persons shall tamper or treat with any Indian or Indians for the purchase, sale, lease, contract or confirmation thereof as aforesaid, or for which any deed of sale, gift, mortgage, conveyance, lease, contract or confirmation shall be taken or received as aforesaid, and that all such deeds of sale, gifts, mortgages, conveyances, leases, contracts and confirmations made and obtained without such license as aforesaid shall be utterly void and null. 40

* Conn., Col. Rec. 1678-1689, pp. 422-3.

ACT OF THE GENERAL ASSEMBLY OF CONNECTICUT RESPECTING THE TITLE TO LANDS,
9TH MAY, 1717.*

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Papers relating to Indian Affairs in the New England and other early British American Colonies.

This Assembly, observing many difficulties and perplexities arising in this government by reason of many purchases made of Indian titles without the preceding allowance or subsequent approbation of this Assembly; which to remove,

It is hereby enacted and declared by this Assembly and the authority thereof, That all lands in this government are holden of the king of Great Britain as the lord of the fee; and that no title to any lands in this Colony can accrue by any purchase made of Indians on pretence of their being native proprietors thereof, without the allowance or approbation of this Assembly.

10 *So it is hereby resolved,* That no conveyance of native right or Indian title, without the allowance or approbation of this Assembly as aforesaid, shall be given in evidence of any man's title, or pleadable in any court.

TREATIES WITH THE SOUTHERN INDIANS, 1763, 1765.†

*At a Congress held at Augusta, in the Province of Georgia, November 10th, 1763.**

Present:—James Wright, Esq., Governor of Georgia; Arthur Dobbs, Esq., Governor of North Carolina; Thomas Boone, Esq., Governor of South Carolina; Frans. Faquier, Esq., Lieut.-Governor of Virginia; John Stuart, Esq., Superintendent of Indian Affairs for the Southern District in North America. Headmen of the Chickasaws, Upper and Lower Creeks, Chactaws, Cherokees, Catawbas.

20 The Creeks grant that the Boundary between the English settlements and our lands and hunting grounds shall be known and settled by a line extending up Savannah River to Little River and back to the fork of Little River to the ends of the South Branch of Briar Creek, and down that branch to the Lower Creek Path, and along that path to the main stream of Ogechee River and down the main stream of that river just below the path leading from Mount Pleasant, and from thence in a straight line cross to Santa Swella on the Altamaha River, and from thence to the southward as far as Georgia extends or may be extended.

The Catawbas confirm a former agreement, and declare they will remain satisfied with the tract of land fifteen miles square, a survey of which was begun, and the Governors and Superintendants promised that the survey should be finished, and that the Catawbas should not be
30 molested within those lines.

Cession of lands by the Cherokees to the Province of South Carolina, date Fort Prince George, October 19th, 1765. ‡

[Extract].

We, whose names are underwritten and seals affixed, warriors and head beloved men of the Cherokees, Plenipotentiaries for the Over Hill, Valley, Middle and Lower Settlements, and especially authorized and deputed by the whole body of the Cherokee nation, certify by these presents, that at a Congress held between George Price, ensign of His Majesty's 60th Regiment, Commanding Officer of Fort Prince George, and Alexander Cameron, Esq., Commissary for Indian Affairs, acting in the behalf of His Britannic Majesty, and his subjects, we have ceded to the English,

40 That tract of land (which previous to this time we deemed our own) lying between a brook, known to the white people by the name of Dewiss' Corner, and to us by The Yellow Water, and another brook distant from the former about ten miles, and known to both white and red people by the name of Long Canes.

1765, December 10th. Approved by Wm. Bull, Esq., Governor of South Carolina.

1766, January 10th. Approved by John Stuart, Esq., Superintendant.

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*Indian Populations of the Northern Regions of North America and the Areas Occupied by them.*Indian Populations of the Northern Regions of North America,
and the Areas Occupied by them.THE INDIANS EAST OF THE MISSISSIPPI—THEIR NUMBERS—THE IROQUOIS—THE REGIONS
DOMINATED BY THEM—THE HURONS OF UPPER CANADA—POPULATION OF THE HURONS.*From Bancroft's History of the United States.**

When, in 1732, the number of Indian fighting men in Pennsylvania was estimated to be seven hundred, one half of them were Shawnee emigrants. So desolate was the wilderness, that a vagabond tribe could wander undisturbed from Cumberland River to the Alabama, from the head waters of the Santee to the Susquehannah. 10

The Miamis were more stable, and their own traditions preserve the memory of their ancient limits. "My forefather," said the Miami orator Little Turtle, at Greenville, "kindled the first fire at Detroit; from thence he extended his lines to the head waters of Scioto; from thence to its mouth; from thence down the Ohio to the mouth of the Wabash; and from thence to Chicago, on Lake Michigan. These are the boundaries within which the prints of my ancestor's houses are every where to be seen." And the early French narratives confirm his words. The forests beyond Detroit were at first found unoccupied, or, it may be, roamed over by bands too feeble to attract a trader or win a missionary; the Ottawas, Algonquin fugitives from the basin of the magnificent river whose name commemorates them, fled to the Bay of Saginaw, and took possession of the whole north of the peninsula as of a derelict country. . . . 20

On the discovery of America, the number of the scattered tenants of the territory which now forms the states of Ohio and Michigan, of Indiana, and Illinois and Kentucky, could hardly have exceeded eighteen thousand. . . .

The immediate dominion of the Iroquois, where the Mohawks, Oneidas, Onondagas, Cayugas, and Senecas, were first visited by the trader, the missionary, or the war parties of the French, stretched, as we have seen, from the borders of Vermont to Western New York, from the lakes to the head waters of the Ohio, the Susquehannah, and the Delaware. The number of their warriors was declared by the French, in 1660, to have been two thousand two hundred; and in 1677, an English agent, sent on purpose to ascertain their strength, confirmed the precision of the statement. Their geographical position made them umpires in the contest of the French for 30 dominion in the West. Besides their political importance was increased by their conquests. Not only did they claim some supremacy in Northern New England as far as the Kennebec, and to the south as far as New Haven, and were acknowledged as absolute lords over the conquered Lenapé; the peninsula of Upper Canada, was their hunting field by right of war; they had exterminated or reduced the Eries and the Connestogas, both tribes of their own family, the one dwelling to the south of Lake Erie, the other on the banks of the Susquehannah; they had triumphantly invaded the tribes of the west as far as Illinois; their warriors had reached the soil of Kentucky and Western Virginia; and England, to whose alliance they steadily inclined, availed itself of their treaties for the cession of territories, to encroach even on the empire of France in America. . . . 40

Such is a synopsis of the American nations east of the Mississippi. It is not easy to estimate their probable numbers at the period of their discovery. Many of them; the Narragansetts, the

*Boston, 1870, vol. 3, pp. 240-1, 243-5, 251-3.

Illinois, boasted of the superior strength of their former condition; and, from wonder, from fear, from the ambition of exciting surprise, early travellers often repeated the exaggerations of savage vanity. The Hurons of Upper Canada were thought to number many more than thirty thousand, perhaps even fifty thousand, souls; yet, according to the more exact enumeration of 1639, they could not have exceeded ten thousand. In the heart of a wilderness, a few cabins seemed like a city; and to the pilgrim, who had walked for weeks without meeting a human being, a territory would appear densely peopled where, in every few days a wigwam could be encountered. Vermont, and north-western Massachusetts, and much of new Hampshire, were solitudes; Ohio, a part of Indiana, the largest part of Michigan, remained open to Indian emigration long after America
10 began to be colonized by Europeans. . . .

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*Indian Popu-
lations of the
Northern
Regions of
North America
and the Areas
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them.*

The whole population of the Five Nations could not have varied much from ten thousand; and their warriors strolled as conquerors from Hudson's Bay to Carolina; from the Kennebec to the Tennessee.

Very great uncertainty must, indeed, attend any estimate of the original number of Indians east of the Mississippi and south of the St. Lawrence and the chain of lakes. The diminution of their population is far less than is usually supposed: they have been exiled but not exterminated. The use of iron, of gunpowder, of horses, has given to the savage dominion over the beasts of the forest, and new power over nature. The Cherokee and Mobilian families of nations are more numerous now than ever. We shall approach, and perhaps exceed, a just estimate of
20 their numbers two hundred years ago, if to the various tribes of the Algonquin race we allow about ninety thousand; of the Eastern Sioux, less than three thousand; of the Iroquois, including their southern kindred, about seventeen thousand; of the Catawbias, three thousand; of the Cherokees, twelve thousand; of the Mobilian confederacies and tribes, that is, of the Chickasas, Choctas, and Muskogees, fifty thousand; of the Uchees, one thousand; of the Natzhez, four thousand; in all, it may be, not far from one hundred and eighty thousand souls.

*From Parkman's Conspiracy of Pontiac.**

If we seek for a single trait pre-eminently characteristic of the Iroquois, we shall find it in that boundless pride which impelled them to style themselves, not inaptly as regards their own race, "The men surpassing all others." "Must I," exclaimed one of their great warriors, as he fell
30 wounded among a crowd of Algonquins,— "must I, who have made the whole earth tremble, now die by the hands of children?" Their power kept pace with their pride, their war parties roamed over half America, and their name was a terror from the Atlantic to the Mississippi; but when we ask the numerical strength of the dreaded confederacy, when we discover that in the days of their greatest triumphs their united cantons could not have mustered four thousand warriors, we stand amazed at the folly and dissension which left so vast a region the prey of a handful of bold marauders. Of the cities and villages now so thickly scattered over the lost domain of the Iroquois, a single one might boast a more numerous population than all the five united tribes. . . .

From this remarkable people, who with all the ferocity of their race, blended heroic virtues and marked endowments of intellect, I pass to other members of the same great family, whose
40 different fortunes may perhaps be ascribed rather to the force of circumstance than to any intrinsic inferiority.

The peninsula between the Lakes Huron, Erie and Ontario, was occupied by two distinct peoples, speaking dialects of the Iroquois tongue [the Hurons or Wyandots, and the Neutral Nation.] . . .

The population of the Hurons has been variously stated at from ten thousand to thirty thousand souls, but probably did not exceed the former estimate. The Franciscans and the Jesuits were early among them, and from their descriptions it is apparent that, in legends and superstitions, manners and habits, religious observances and social customs, they were closely assimilated to their brethren of the Five Nations. . . .

And now, before launching into the story of the sanguinary war which forms our proper and immediate theme, it will be well to survey the grand arena of the strife, the goodly heritage which the wretched tribes of the forest struggled to retrieve from the hands of the spoiler.

One vast, continuous forest shadowed the fertile soil, covering the land as the grass covers a garden lawn, sweeping over hill and hollow in endless undulation, burying mountains in verdure, and mantling brooks and rivers from the light of day. Green intervals dotted with browsing deer, and broad plains alive with buffalo, broke the sameness of the woodland scenery. Unnumbered rivers seamed the forest with their devious windings, vast lakes washed its boundaries, where the Indian voyager, in his birch canoe, could descry no land beyond the world of waters. Yet this prolific wilderness, teeming with waste fertility, was but a hunting-ground and a battle-field to a few fierce hordes of savages. Here and there, in some rich meadow opened to the sun, the Indian squaws turned the black mould with their rude implements of bone or iron, and sowed their scanty stores of maize and beans. Human labor drew no other tribute from that exhaustless soil.

So thin and scattered was the native population that, even in those parts which were thought well peopled, one might sometimes journey for days together through the twilight forest and meet no human form. Broad tracts were left in solitude. All Kentucky was a vacant waste, a mere skirmishing ground for the hostile war-parties of the north and south. A great part of Upper Canada, of Michigan and of Illinois, besides other portions of the west, were tenanted by wild beasts alone. To form a close estimate of the numbers of the erratic bands who roamed this wilderness would be impossible; but it may be affirmed that, between the Mississippi on the west and the ocean on the east, between the Ohio on the south and Lake Superior on the north, the whole Indian population, at the close of the French war, did not greatly exceed ten thousand fighting men. Of these, following the statement of Sir William Johnson, in 1763, the Iroquois had nineteen hundred and fifty, the Delewares about six hundred, the Shawanoes about three hundred, the Wyandots about four hundred and fifty, and the Miami tribes, with their neighbors the Kickapoos, eight hundred, while the Ottawas, the Ojibwas and other wandering tribes of the north, defy all efforts at enumeration.

CENSUSES OF THE INDIAN POPULATIONS OF BRITISH NORTH AMERICA—AREAS OCCUPIED BY THEM—1611-1871.

30

*From the Census of Canada of 1871.**

In the first relation of the Jesuits (*Relation de 1611, Vol. I., page 15, Edition Canadienne*), will be found an estimate of the Indian population of the territories now constituting Nova Scotia, New Brunswick, the State of Maine, parts of others of the New England States and the Lower Saint Lawrence, as follows:

All the Souriquois	3,000 to 3,500	
The Eteminquois as far as Pentagoet	2,500	
From Pentagoet to Kinibequi and Chouacoet	3,000	
The Montagnets (a tribe of the Algic race inhabiting the high-lands of New England)	1,000	40
	10,000	

A Memoir deposited among the Archives of Paris gives a Census [date 1736] of the Indian population in the territories now comprised in the following geographical divisions:

*Vol. 4, pp. xiv, xxiv, xxxvi, lii-lxxii, lxxxii-lxxxiv.

IN BRITISH AMERICA.—Part of the Territory drained by the River St. John, in New Brunswick ; the Province of Quebec, from Quebec westward ; the Province of Ontario ; the Province of Manitoba and part of the North-West Territory.

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IN THE UNITED STATES.—The States of New York, Pennsylvania, Ohio, Indiana, Michigan, Wisconsin, Illinois, Iowa, Minnesota, Nebraska, Kansas, Missouri, Arkansas, Kentucky, Tennessee, Western Virginia, and part of Virginia and Maryland, with the Territory of Dakota.

Indian Populations of the Northern Regions of North America and the Areas Occupied by them.

The Indians of this vast extent of territory were estimated to number 15,875 warriors, which supposes a total population of about 79,375.

In the London Archives (1763), is a memorandum by Sir William Johnson containing an estimate of the numbers of Indian warriors frequenting the neighbourhood of both banks of the St. Lawrence from Quebec westward ; of both banks of the Ottawa River, and of both sides of Lakes Ontario, Erie, Huron, Michigan and Superior, a portion of the Central and Western States and of the North Western Prairies, under the four following designations :

Six Nation Confederacy	2,230	warriors.
Indians of Canada in alliance with the Six Nations.....	630	"
Indians of Ohio.....	1,100	"
Ottawa Confederacy.....	3,220	"
Miamis or Twightwees.....	800	"
Chipeweighs, etc.	4,000	"

20 (exclusive of the Sioux and Illinois). In all 11,980 warriors, which supposes a population of about 59,900 souls.

It is of importance, both in a statistical and ethnographical point of view, to establish the approximate number of the whole aboriginal race of these vast territories of British North America, of which they were the first occupants and consequently the first proprietors.

Three statements, Censuses, they might be called, of the aboriginal population within certain named districts, have been mentioned in the preceding pages, the numbers having been ascertained at three different periods of the history of colonization in this country. Although incomplete, they have considerable value, inasmuch as they bear the character of the comparative exactitude which the subject admits of, and are, therefore, the numerical expression of the amount of population in a savage state which a certain extent of territory will maintain, under given circumstances, by the produce of hunting and fishing. Certain tribes mentioned cultivated maize, or Indian corn, pumpkins and beans, but any one studying the conditions of such cultivation described in the writings of missionaries and discoverers, will see at once that these resources, in the best yielding seasons, could not dispense with having recourse to hunting and fishing ; and, besides, that this cultivation would only take place where the sea fishing of the maritime coasts, or where the hunting ground was wanting in extent or products.

Most of the estimates of the aboriginal population made by both ancient and modern writers, from information given by Indians themselves, or by travellers and traders, are full of exaggeration, which has been seldom discovered by criticism, so difficult is it to realize, as correct, the fact of the enormous extent of territory necessary to supply man with food by the chase.

It is thus that at and after the time of Champlain, the population of the Huron Nation was estimated at 30,000 and upwards. Champlain himself fell into this error, which he, however, corrects in a manner, by saying that that nation had only 2,000 warriors (which means about 10,000 souls). And, in fact, a regular census made by the missionaries in 1639—that is, at the period of the greatest concentration of the Hurons—showed at that time 32 villages, 700 lodges (among the settled Huron-Iroquois the villages were composed of arched lodges serving for a greater or lesser number of families), 2,000 fires, 12,000 persons. (*Relation de 1640, page 62*) . . .

The population of the Five Nations was regularly ascertained in 1665 by the Jesuit Missionaries, and in 1677 by Wentworth Greenhalgh, in a tour of investigation for that purpose made on account of the British Government. The summary of these two enumerations may be found, the first in the *Relation* of 1665, pages 10 and 11, the second in the *London Archives*.

In 1665, the Anniegués (Mohawks) counted 400 warriors; the Onneyouts (Oneidas) 140 warriors; the Onnontagués (Onondagas) 300 warriors; Oiougouens (Cayugas) 300 warriors; and the Sonnantouans (Senecas) 1,200 warriors; in all 2,340 warriors, or 11,700 souls.

The enumeration of 1677 is thus summarized: Maquaes (Mohawks) 5 villages, 96 lodges, 300 warriors; Onyades (Oneidas) 1 village, 100 lodges, 200 warriors; Onondagos, 2 villages, 164 lodges, 350 warriors; Caiougos (Cayugas) 3 villages, 100 lodges, 300 warriors; Senecques (Senecas) 4 10 villages, 324 lodges, 1,000 warriors; in all 2,150 warriors, or about 10,750 souls.

Before examining the three most important documents we possess relative to the aboriginal population of old, it may be interesting to add a document bearing every mark of exactitude. The document relates to the year 1745, and is among the *Paris Archives*. The missionaries, the Abbé Laloutre and Abbé Maillard, and Fathers Lacorne and De l'Estage, give an account of the Micmacs, of whom they ascertained the existence in Acadia (Nova Scotia), of 200 families; in Isle Royale (Cape Breton), 80 families; in Miramichi, 195 families, and in Restigouche, 60 families; in all 535 families, or about 2,407 souls. Among the Indians the mean is about 4.5 individuals to each family, and as the number of men fit to bear arms is a little greater than that of the families, the number of warriors is multiplied by 5 and of the families by $4\frac{1}{2}$ to arrive at the population. It is at 20 those rates that, when needed, the population is calculated in the following pages.

The broad facts which spring from the examination of the conditions of the savage state in this country, are:

1. That the most fertile soils are not those which, in general, yield most support to those engaged in hunting; that the fisheries, and especially on the maritime coast, are the most abundant of the natural sources of supply found by man in a savage state. It is the Indians most favorably situated in respect to soil and climate, who supplement the food obtained by hunting and fishing, by cultivation. On the other hand the Esquimaux, whose territory is restricted to the waste and desolate shores of the frozen sea, manage to derive a rough abundance from the icebound waters;

2. That Indian populations living exclusively by hunting and fishing, cannot increase beyond 30 certain very restricted limits, governed by the ratio between the number of inhabitants and the superficies inhabited. Below this ratio they descend periodically by famine, disease, or war, oscillating in this way, between an almost determinable maximum (the circumstances being known) and an undeterminable minimum. The mildness of the climate has a great bearing on this question, if not in actually adding to the natural resources, at least in lessening the wants;

3. That Indian populations, keeping to the habits of hunting tribes, diminish in number in the ratio of the extent and frequency of their relations with civilized nations, by the destruction of their primitive means of existence, and the introduction of vices and diseases, or by absorption, in the creation of a half-breed race.

To decide as to the greater or less value of the figures given respecting the Indian population 40 of a territorial division, in the absence of a regular census, these elements of criticism must be taken into account.

The first of the statements of Indian population referred to, dates from 1611. It was prepared by a Jesuit missionary, and inserted in the *Relation* of that year, being the first of this series

of admirable letters which constitute the most valuable source of information for the history of the early days of Canadian colonization.

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The country inhabited by the tribes mentioned in that *Relation*, who all belonged to the great Algonquin family, afforded good hunting and superior fishing. The Souriquois (the Micmacs of the present day) inhabited what now constitutes the Provinces of Nova Scotia and Prince Edward Island, the littoral of the Gulf of St. Lawrence in the Provinces of New Brunswick and Quebec, and the eastern watersheds of that region. They were about 3,500, and their territory *then* covered a superficies of about 45,000 square miles (English). *Indian Populations of the Northern Regions of North America and the Areas Occupied by them.*

The Etaminquois (now the Malechites) occupied the whole valley of the St. John River in 10 New Brunswick and part of the State of Maine, extending into and including all the interior, as far as the River St. Lawrence, taking in that part of the valley of the St. Lawrence which fronts on the course of the St. John River and tributaries. They numbered about 2,500, and their territory covered *then* a superficies equal to about 40,000 square miles; but their maritime fisheries were less extensive than those of the Souriquois.

The Kenibéquis (now the Abenakis) occupied part of the States of Maine, Vermont and New Hampshire, the States of Massachusetts and Connecticut, and all the southern valley of the St. Lawrence from the River Chaudière to the Iroquois territory, and even hunted on the littoral of the north shore of the St. Lawrence; they numbered 3,000, and their territory covered a superficies of about 55,000 square English miles. Their coast fishing, although of great value, was much 20 less important than those of the Souriquois and Etaminquois.

The Montagnets belonged to the Abenakis family, and their hunting grounds were in the mountainous parts of New Hampshire and Vermont, and in that part of the Province of Quebec now known as the Eastern Townships, and the District of Beauce. They numbered 1,000 souls, and occupied about 20,000 square miles of country, but without fisheries.

We have, then, in a country containing one of the most abundant hunting and fishing grounds, and which is, therefore, one of the most suitable to support a savage population, during a period of prosperity and in an age in which no foreign influence had come to disturb the primitive condition of these tribes, 10,000 inhabitants occupying about 160,000 square miles of territory, being one inhabitant to 16 square miles, or 41 square kilomètres. And for the Souriquois, separately, 30 one inhabitant for about 12 square miles, or about 31 square kilomètres.

The two other statements of Indian population, given above, relate to the years 1736 and 1763. The first is a memoir deposited in the *Paris Archives*, written by an officer of the French Government, whose name is not given; the second is by Sir William Johnson, and forms part of the English documents entitled, *Plantations General Papers*.

It is very interesting to compare these two estimates of the number of Indians, made in respect to the same tribes and the same territories at an interval of more than a quarter of a century. We give the summarized table of the information contained in these two memoirs, grouped in such a way as to admit of comparison. Both memoirs give only the number of warriors, that is, about the fifth of the total population, which may thus be determined, in round numbers, as 79,375 souls, 40 according to the French, and 59,900 according to the English memoir, or rather 78,000 by adding the enumeration of the tribes of the Illinois and of the Sioux, Assiniboines and part of the Abénakis, wanting in the English memoirs.

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Indian Populations of the Northern Regions of North America and the Areas Occupied by them.

TABLE made up from the Memoirs of 1736 and 1763 of the Aboriginal populations of certain territories in North America, now situated partly in the United States of America and partly in Canada.

Names of the Tribes.	Designation of the Territories Inhabited.	1736.		1763.	
		Number of Warriors.	Population.	Number of Warriors.	Population.
CANADA.					
Abenakis (comprising evidently a portion of the Malechites).	{ St. John River (New Brunswick), Becancour and St. Francis, Eastern Townships (Province of Quebec)	*590	2,950	†100	500 10
Algonquins, Ottawas, Potawatamis, Sauteux, Crees, and other related tribes.	{ Valley of the Ottawa, Valley and Islands of Lake Huron, North of Lake Superior, Valley of the Kaministikwia River and from thence to the Rainy Lake, Red River and Swan River Districts.	2,295	11,475	‡4,130	20,650
Hurons	Lorette, near Quebec, Detroit River ..	260	1,300	290	1,450
Iroquois	{ Kaughnawaga, Lake of Two Mountains, St. Regis	370	1,850	360	1,800
UNITED STATES.					
Iroquois and adopted tribes.	{ States of New York, Pennsylvania, Ohio, and part of the State of Maryland and of the two Virginias	1,110	5,550	§2,230	11,150 20
Sioux, Assinipoëls and Puants (Pole Cats)	{ Minnesota and Dakota	2,530	12,650	||	.....
Illinois and affiliated tribes..	Illinois	600	3,000	||	.....
Kiwanaws, Ottawas, Sauteux, Potawatamis, Iowas, Folle-Avoines, Foxes, Kikapoos, Maskoutins, Cherokees, Chicakas, Miamis, Chawanons, and other related tribes	{ Michigan, Indiana, part of the two Virginias, Kentucky, Tennessee, Missouri, Arkansas, Kansas, Nebraska, Iowa, Wisconsin	8,120	40,600	¶ 4,870	24,350
	Total	15,875	79,375	11,980	59,900 30
	Adding to the English Memoir the population omitted therefrom		79,375	.....	78,000

* The French memoir mentions that the Abenakis and Mohicans (*les Loups*) reckon 600 warriors (3,000 souls) from Boston to Virginia, but this section of the nation is not included in the enumeration.

† Sir William Johnson's memoir says that his report is incomplete as regards the Abenakis; mention is only made in it of the St. Francis Indians.

‡ The increase was caused by the immigration of the Algonquin races to Canada from the United States, of the Ottawas, Potawatamis, Sauteux, etc., etc., from Lake Huron as far as the limits of Swan River District, North West.

§ The increase of the Iroquois was caused by the adoption and incorporation of tribes.

|| The English memoir says that the census of these tribes could not be made.

¶ This enormous decrease was caused by the atrocious wars waged by these nations, confined within too narrow limits, the massacres producing an excess of deaths over births; together with the Emigration to Canada and the adoption of the small tribes into the Iroquois Confederation; (see notes ‡ and §). Thus the Algonquin races of Canada increased by 9,175 souls, the Hurons by 150, and the Iroquois of the United States by 5,600, whilst the numerous tribes last mentioned have decreased by 16,250. The Iroquois of Canada appear to have suffered a diminution of 50 during the same period.

In order to compare these two memoirs, there must first be added to the sum contained in the English memoir, the numbers representing the clans not enumerated in it, namely: The Abenakis of the St. John River, 490 warriors; the Illinois, 600 warriors, and the Sioux-Assiniboines, 2,530

warriors; or in all, 3,620 warriors, representing a population of about 18,700 souls. Adding this number to the total amount of 59,900 for the year 1763, there is shown a total of 78,000, as against 79,375 for the year 1736, or a decrease of 1,375 on the whole of this population.

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The superficies occupied by these tribes is the same for both periods, about 1,000,000 square miles (2,590,000 kilometres) for that part of the population situated in the United States; including the States and territories mentioned in the Table. The aboriginal population of this territory numbering, by the complete memoir, 61,800 in 1736 gives 1 inhabitant for each 16 square miles; but very unequally distributed, varying between a minimum of 14 miles and a maximum of 28 miles per head; and for the portion of the territory situated on the Canadian side composed of 10 localities enumerated in the Table, in all nearly 650,000 square miles (1,683,000 kilometres) the aboriginal population, which in 1736 was 17,575 souls, gives about 1 inhabitant to each 37 square miles. From 1736 to 1763 the aboriginal population mentioned in the two memoirs had, as a whole, undergone a total diminution of upwards of 1,375 souls. But it must be remarked that this diminution (as well as the changes to lesser numbers caused by migrations) took place in the most densely populated territory, where the hunting grounds were 14 miles square per head. The population on the Canadian side, hunting over 37 square miles per head, increased by about 9,275 souls during that interval, while the other, on the American side, taken as a whole, had lost 10,650. In the United States again the tribes who cultivated the land and were possessed of 28 miles per head of hunting ground, have increased when the others diminished. The increase on the Canadian 20 side is due principally to the immigration from the United States; for it is a fact, ascertained since the North American tribes have been known, that they in the long run and taken as a whole, remain stationary in point of population, when they do not diminish. The immigration took place in consequence of the territories on the Canadian side having been depopulated by the wars of extermination of the preceding period.

By the Census of 1871, an exact enumeration has for the first time been made of the aboriginal population within the limits of the Province of Prince Edward Island (323), of Nova Scotia (1,666), of New Brunswick (1,403), of Quebec (6,988), and of Ontario (12,978), showing a total for these five Provinces of 23,358.

However, as the Census has recorded this population only by localities and not by tribes, it 30 has been thought desirable to supply this deficiency, and at the same time to try to establish the number of the indigenous population throughout the whole extent of the British possessions in North America, together with the approximate extent of the superficies inhabited by each of the tribes or groups of tribes; the result of which will be found summarized in the Table which follows. The information has been drawn from the Census of 1871; from the writings and notes of the missionaries; from reports, works and memoirs published at different periods; and from details received, *viva voce*, from persons who have been in intimate relations with these clans. The part of the indigenous population, of which the least is known, is that in British Columbia. For this reason, as is usual in such cases, their numbers have almost always been exaggerated. . . .

It is scarcely necessary to say that the hunting grounds of each Indian tribe are not actually 40 marked off by precise and invariable limits, like those which divide the Provinces of an organized country from one another, and that, therefore, the figures, beyond those taken from the Census of 1871, are only approximate. As to the calculations of the superficies, they have, in common with the rest of the work, been very carefully made, and it is confidently believed they do not yield in point of exactitude to the estimates made from time to time (which all necessarily vary) of the superficies of the unsurveyed regions of the American continent. From the total superficies, shown in the Table by tribal occupancy, and given in detail hereafter, for each Province, the bays and the great estuaries have been eliminated. Newfoundland and Anticosti, which have no aboriginal population, are not included in the superficies of the Table, but are afterwards mentioned; Newfoundland separately, Anticosti in the superficies of Quebec.

TABLE of the Aboriginal Population of Canada, with the Superficies in square miles of the hunting and fishing grounds occupied by the different tribes, the whole referring to the year 1871.

Names of Tribes.	Description of Places inhabited.	Population.	Territorial Superficies in English square miles.
[The details are here omitted as unnecessary.]			
Total		102,358	3,498,000

It will be seen that taking the whole of the aboriginal population of British North America, including the few tribes who live chiefly by agricultural and industrial pursuits in the settled Provinces, as well as the tribes placed in exceptionally unfavorable conditions in Arctic climates, the mean inhabited superficies is 34 square miles per head. Eliminating from the calculation these two extremes in the scale of comparison, the mean falls to about 25 square miles per head, the *minimum* being about 10 square miles per head; the *maximum* being found in the most rigorous climates, and the *minimum* exclusively where there are abundant sea coast fisheries. In the best hunting grounds, with a temperate climate, in the absence of extensive fisheries and of cultivation 10 of the soil, the increase of the Indian population to a larger number than 1 inhabitant to 15 square miles causes misery and disease, or incursions upon neighboring territories and consequent warfare.

Sir George Simpson, in 1857, in his replies to the Special Committee of the British House of Commons appointed to enquire at that date into the affairs of the Hudson's Bay Company, again points out (*page 58 of the Report*) the fact of these periodical oscillations of increase and decrease among the Indians. He points out that the tribes of the Western woods, after having been decimated by disease for several years, were at that time passing through a period of increase, whilst the prairie tribes were at the same time suffering from decrease caused by tribal wars and disease.

The information given in the preceding Table and the small chart accompanying it, may be 20 thus summarised: . . .

As regards mode of living:

Living chiefly by fishing, about.....	23,000
" in camps, by prairie hunting, about.....	18,000
" in villages, in settled districts, about.....	17,358
" by families in the woods, about.....	44,000
	102,358

The testimony given to the Special Committee of the British Commons in 1857, by Sir George Simpson, who was for thirty-seven years Governor of the Hudson Bay Territories in America, has been referred to above. Sir George at the same time laid before the Committee a Memorandum 30 prepared by the officers of the Company, as to the population of the trading country covered by their forts. . . .

It should be remarked here that the fifteen years which have elapsed between the date of the preparation of the Hudson Bay Company's Memorandum (1856) and that to which the Table in this work refers (1871) have not produced, in fact, any notable change in the number or mode of life of the aboriginal populations depending on hunting and fishing in the unsettled regions of British North America. . . .

This introduction may be properly concluded by the complete account of the territorial superficies and tables of the population of the different parts of British North America, the whole referring, as the fixed period, to the year 1871.

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Names of Territorial Divisions.	Aboriginal Population	Other Races.	Total Population	Superficies in Square Miles
Newfoundland (Census of 1869).....	Nil.	146,536	146,536	42,000
Prince Edward Island (Census of 1871)	323	93,698	94,021	2,100
Nova Scotia (Census of 1871)	1,666	386,134	387,800	21,731
10 New Brunswick (Census of 1871)	1,403	284,191	285,594	27,322
Province of Quebec (Census of 1871).....	6,988	1,184,528	1,191,516	193,355
Province of Ontario (Census of 1871)	12,978	1,607,873	1,620,851	107,780
Manitoba (C. 1870)—(Estimate of the Aboriginal Population).....	500	12,228	12,728	14,000
British Columbia— (Estimate of the Population).....	23,000	10,586	33,586	356,000
Labrador, Rupert's Land and the North-West—(Estimate).....	55,500	5,000	60,500	2,465,712
Islands in the Arctic Ocean and in Hudson's Bay				310,000
Total.....	102,358	3,730,774	3,833,132	3,540,000

The number of the aboriginal population here assigned to the Province of Manitoba, is made up only of the Indians for whom that Province constitutes the hunting and fishing territory, and which necessarily differs from that supplied by the reports and memoranda which register the population by groups assembled for Trade or Counsel. [The Manitoba here referred to is the original Province before the extension of its boundaries].

It is seen in the Report of the Honourable the Minister of the Interior for 1875, that an important part of the territories of the North-West (including the Province of Manitoba), has been the subject of various treaties, by which the Indians have abandoned, for certain considerations, their rights as first occupants to the Federal Government. An aboriginal population amounting to 13,944 souls, is included in these treaties.

INDIAN POPULATION OF CANADA BY THE CENSUS OF 1881.*

Prince Edward Island.....	281
Nova Scotia	2,125
30 New Brunswick	1,401
Quebec	7,515
Ontario	15,325
Manitoba	6,767
British Columbia.....	25,661
The Territories	49,472
Grand Totals of Canada.....	108,547

It has been almost impossible to make an enumeration, properly so called, of the Indian population over a great extent of the unorganized territory of the Confederation; consequently the rate of the aboriginal population of the sub-districts thus situated has been settled by estimate, these districts being: The northern part of sub-district C, of district 187, British Columbia; certain

* Census of Canada 1880-1, Vol. I, pp. xiv., 300-1.

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sections of the District in the interior of the same Province; all the sub-districts of district 192 (Territories) with the exception of those included in the Indian Treaties Nos. 1, 2, 3, 4, 5, 6, and 7, the enumeration of these being made according to the indemnity per head paid by the Department of the Interior; and also with the exception of the principal portion of the Indian population of Eastern Rupert's Land, which has been regularly enumerated.

The estimates of the Indian population of the sub-districts, not susceptible of enumeration, are the same as those published in the fourth volume of the Statistics and Census of 1871, whose approximate correctness is fully proved by a comparison of them with the portion regularly enumerated in 1881. In round numbers, of the total aboriginal population, amounting to 108,547 souls in the Census of 1881, the estimate just spoken of has been made in respect to 34,000. 10

[The limits of Manitoba had been largely extended between the dates of the two Censuses, by Act of the Dominion Parliament.]

CENSUS OF THE INDIAN POPULATION OF THE TERRITORY COVERED BY TREATY No. 3, REFERRED TO IN THE PROCEEDINGS HEREIN.

*From the Report of the Deputy Superintendent-General of Indian Affairs, dated 31 December, 1876, in the Appendix to Report of the Department of the Interior (Canada), dated 15th January, 1877.**

Indians under Treaty No. 3.....2,661.

From the Report of the Department of Indian Affairs for the year ended 31 December, 1885.†

Chippewas and Sauteux of Treaty No. 3.....2,620. 20

* Sess. Papers, Can., 1877, No. 11, p. 91. † Printed by Order of Parliament, Ottawa, 1886, part 1, p. 194.

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1. Documents relating to the original Thirteen States, or to other States to which these had ceded their rights of pre-emption.
2. Documents applying in part to these and in part to the other States and Territories.
3. Documents relating to States and Territories not within the limits of the original Thirteen States or of other States their grantees.

10 1.—DOCUMENTS RELATING TO THE ORIGINAL THIRTEEN STATES, OR TO OTHER STATES TO WHICH THESE HAD CEDED THEIR RIGHTS OF PRE-EMPTION.

DECLARATION OF PROPERTY OF NORTH CAROLINA IN THE SOIL WITHIN HER STATED LIMITS, SUBJECT TO THE ENJOYMENT BY THE INDIANS OF HUNTING GROUNDS RESERVED TO THEM BY THE LEGISLATURE OF THE STATE.

*Constitution of North Carolina, 1776: Declaration of Rights, Art. 25.**

The property of the soil, in a free government, being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the State should be ascertained with precision; and as the former temporary line between North and South Carolina, was confirmed, and extended by Commissioners, appointed by the Legislatures of the two States, agreeable to the order of the late King George II. in Council, that line, and that only, should be esteemed the Southern boundary of the State—that is to say, beginning on the sea side, at a cedar stake, at or near the mouth of Little River (being the southern extremity of Brunswick County), and running from thence a northwest course, through the boundary house, which stands in thirty-three degrees fifty-six minutes, to thirty-five degrees north latitude; and from thence a west course so far as is mentioned in the charter of King Charles II. to the late Proprietors of Carolina. Therefore, all the territory, seas, waters, and harbours, with their appurtenances, lying between the line above described, and the southern line of the State of Virginia, which begins on the sea shore, in thirty-six degrees thirty minutes, north latitude, and from thence runs west, agreeable to the said charter of King Charles, are the right and property of the people of this State, to be held by them in sovereignty; any partial line, without the consent of the Legislature of this State, at any time thereafter directed, or laid out, in anywise notwithstanding:—*Provided always*, that this declaration of rights shall not prejudice any nation or nations of Indians, from enjoying such hunting grounds as may have been, or hereafter shall be, secured to them by any former or future Legislature of this State: *And provided also*, that it shall not be construed so as to prevent the establishment of one or more governments westward of this State, by consent of the Legislature: *And provided further*, that nothing herein contained shall affect the titles or possessions of individuals holding or claiming under the laws heretofore in force, or grants heretofore made by the late King George II. or his predecessors, or the late lords proprietors, or any of them.

* Poore's Constitutions, p. 1410.

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VIRGINIA CONFIRMS TO MARYLAND, PENNSYLVANIA, AND NORTH AND SOUTH CAROLINA, RESPECTIVELY, THE TERRITORIES WITHIN THEIR CHARTERED LIMITS—NO PURCHASES OF LANDS FROM THE INDIANS BUT ON BEHALF OF THE PUBLIC AND BY AUTHORITY OF THE LEGISLATURE.

Constitution of Virginia of 1776. (Last paragraph.)*

The territories contained within the charters erecting the colonies of Maryland, Pennsylvania, North and South Carolina, are hereby ceded, released and for ever confirmed, to the people of these colonies respectively, with all the rights of property, jurisdiction and government, and all other rights whatsoever, which might, at any time heretofore, have been claimed by Virginia, except the free navigation and use of the rivers Patomaque and Pokomoke, with the property of 10 the Virginia shores and strands, bordering on either of the said rivers, and all improvements, which have been, or shall be made thereon. The western and northern extent of Virginia shall, in all other respects, stand as fixed by the charter of King James I. in the year one thousand six hundred and nine, and by the public treaty of peace between the Courts of Britain and France, in the year one thousand seven hundred and sixty-three; unless, by act of this Legislature, one or more governments be established westward of the Alleghany Mountains.

And no purchases of lands shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

PURCHASES OF LAND FROM THE INDIANS OF NEW YORK TO BE VALID ONLY WHEN AUTHORIZED BY THE STATE. 20

Constitution of the State of New York, of 1777. Art. 37.†

37. And whereas it is of great importance to the safety of this State that peace and amity with the Indians within the same be at all times supported and maintained; and whereas the frauds too often practised towards the said Indians, in contracts made for their lands, have, in divers instances, been productive of dangerous discontents and animosities: Be it ordained, that no purchases or contracts for the sale of lands, made since the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said Indians, within the limits of this State, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the Legislature of this State.

STATUTE OF VIRGINIA, 3RD OF COMMONWEALTH, CHAP. XXV, 1779.—PRE-EMPTIVE RIGHTS OF THE 30 STATE.

An Act for declaring and asserting the rights of this Commonwealth, concerning purchasing lands from Indian natives.‡

1. To remove and prevent all doubt concerning purchase of land from the Indian natives, Be it declared by the General Assembly, That this commonwealth hath the exclusive right of pre-emption from the Indians of all lands within the limits of its own chartered territory, as described by the act and constitution of government in the year one thousand seven hundred and seventy-six; that no person or persons whatsoever have, or ever had, a right to purchase any lands within the same from any Indian nation, except only persons duly authorized to make such purchases on the public account, formerly for the use and benefit of the colony, and lately of the commonwealth; 40

* Poore's Constitutions, p. 1912.

† *Ibid.*, p. 1338.

‡ Hening's Statutes at Large of Virginia, Vol. 10, p. 97.

and that such exclusive right of pre-emption will, and ought to be maintained by this commonwealth to the utmost of its power.

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2. And be it further declared and enacted, That every purchase of lands heretofore made by, or on behalf of the crown of England or of Great Britain, from any Indian nation or nations within the before mentioned limits doth and ought to enure forever to and for the use and benefit of this commonwealth, and to and for no other use or purpose whatsoever; and that all sales and deeds which have been or shall be made by any Indian or Indians, or by any Indian nation or nations, for lands within the said limits, to or for the separate use of any person or persons whatsoever, shall be, and the same are hereby declared utterly void and of no effect.

Public Documents, shewing the mode of dealing, in the United States, with Indians, in respect of Lands within the limits of the several States.

10 CESSION—THE SIX NATIONS OF INDIANS TO THE STATE OF PENNSYLVANIA, 1789.*

Articles of Agreement.

Be it remembered by all whom it may concern :

That on the ninth day of January, in the year of our Lord 1789, in open and public council, we, the undersigned chiefs, warriors and others representing the following named tribes of the six nations, to wit: the Ondawagas or Senecas, Cayugas, Tuscaroras, Onondagas and Oneidas, for and in behalf of ourselves, our tribes, our and their heirs and successors, on the one part, and Richard Butler and John Gibson, Esqrs., Commissioners for and in behalf of the State of Pennsylvania (Onas), on the other part, did make and conclude upon the following articles, viz. :

20 Article 1.—That as soon as these articles are signed, interchangeably, by the aforesaid chiefs and commissioners, the said chiefs will execute a deed of conveyance to the State of Pennsylvania, for a tract of country as shall hereafter be described.

Article 5.—That as several villages, belonging to the signing chiefs and their people, are now living on the said Conowago Creek, and in other parts of the country, supposed to be within the tract of country west of the west line of the State of New York, and east of the line through the waters, as described in the third article; and as they have no country to remove to from where they now live, the said chiefs do reserve for their own and their people's residence, hunting and fishing, all that part of the tract of country described in the second article, passing from the Alleghany River along the middle of the Conowago Creek, the Chadochque Lake, and a
30 meridian line from the north end of the said Lake to Lake Erie.

Article 7.—The said Richard Butler and John Gibson, Esqrs., Commissioners for and in behalf of the State of Pennsylvania, do agree to the aforesaid articles, in their true intent and meaning; and they do further engage, on the faith of the State of Pennsylvania, that the aforesaid chiefs and the people of their tribes shall have full and peaceable liberty to hunt and fish within any part of the country first above described, they demeaning themselves peaceably towards the inhabitants. But the said chiefs, or their successors, shall not at any time hereafter, directly or indirectly, lease, rent or make sale of any part or parcel of the tract here reserved for their use and residence, to any other State, person or persons.

Deed of Conveyance.

40 Know all men by these presents, that we, the undersigned chiefs, warriors and others representing the following named tribes of the Six Nations, to wit: the Ondawagas or Senecas, Cayugas, Tuscaroras, Onondagas and Oneidas, for and in consideration of the sum of two thousand dollars, to us in hand paid by Richard Butler and John Gibson, Esquires, Commissioners for and in behalf of the State of Pennsylvania, the receipt whereof we do hereby acknowledge, and we, for ourselves, our tribes, our and their heirs and successors, are therewith fully paid and satisfied,

* American State Papers—Indian Affairs, Vol. 1, pp. 512, 513.

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have granted, bargained, sold, and assigned over, and by these presents do grant, bargain, sell, remise, release, quit claim, and assign over unto the said State of Pennsylvania, all our and their right, title, claim and interest of, in and to all that tract of country situate, lying and being within the territory of the United States, bounded on the south by the north line or boundary of the State of Pennsylvania, on the east by the western line or boundary of the State of New York, agreeably to an act of cession of the said State of New York and the State of Massachusetts to the United States, and on the north by the southern shore or margin of Lake Erie, including Presqu' Isle, and all the bays and harbours along the shore or margin of the said Lake Erie, from the west boundary of the said State of Pennsylvania, to where the west line or boundary of the State of New York may cross or intersect the southern shore or margin of the said Lake Erie; to have and to hold the said tract, as above described, with all its appurtenances and advantages, to the only proper use and behoof of the said State of Pennsylvania forever, under and subject to the provisos and reservations made and agreed upon in behalf of ourselves and our tribes, their heirs and successors, mentioned in certain articles of agreement, made and concluded with the aforesaid Richard Butler and John Gibson, Esquires, Commissioners for and in behalf of the said State of Pennsylvania, which articles were signed by the aforesaid Chiefs and Commissioners interchangeably, before the executing and signing of this deed. 10

In testimony whereof, we, the said chiefs, have hereunto set our hands and seals, this — day of January, in the year of our Lord 1789.

*Report of General Knox, Secretary of War, to the President of the United States, 7th July, 1789.** 20

THE GENERAL GOVERNMENT SHOULD POSSESS THE TREATY-MAKING POWER—THE INDIVIDUAL STATE TO RETAIN THE RIGHT OF PRE-EMPTION OF ALL LANDS WITHIN ITS LIMITS.

The following observations, resulting from a general view of the Indian Department, are suggested with the hope, that some of them might be considered as proper principles to be interwoven in a general system, for the government of Indian affairs. It would reflect honour on the new Government, and be attended with happy effects, were a declarative law to be passed, that the Indian tribes possess the right of the soil of all lands within their limits, respectively, and that they are not to be divested thereof, but in consequence of fair and *bona fide* purchases, made under the authority, or with the express approbation of the United States.

As the great source of all Indian wars are disputes about their boundaries, and as the United States are, from the nature of the Government, liable to be involved in every war that shall happen on this or any other account, it is highly proper that their authority and consent should be considered as essentially necessary to all measures for the consequences of which they are responsible. 30

No individual State could, with propriety, complain of invasion of its territorial rights. The independent nations and tribes of Indians ought to be considered as foreign nations, not as the subjects of any particular State. Each individual State, indeed, will retain the right of pre-emption of all lands within its limits, which will not be abridged; but the general sovereignty must possess the right of making all treaties, on the execution or violation of which depend peace or war.

Whatever may have been the conduct of some of the late British colonies, in their separate capacities towards the Indians, yet the same cannot be charged against the national character of the United States. 40

It is only since they possess the powers of sovereignty, that they are responsible for their conduct.

* American State Papers—Indian Affairs, Vol. 1., pp. 52, 53.

But, in future, the obligations of policy, humanity and justice, together with that respect which every nation sacredly owes to its own reputation, unite in requiring a noble, liberal, and disinterested administration of Indian affairs. Although the disposition of the people of the States to emigrate into the Indian country, cannot be effectually prevented, it may be restrained and regulated.

It may be restrained by postponing new purchases of Indian territory, and by prohibiting the citizens from intruding on the Indian lands.

It may be regulated by forming colonies under the direction of Government, and by posting a body of troops to execute their orders.

- 10 As population shall increase, and approach the Indian boundaries, game will be diminished, and new purchases may be made for small considerations. This has been and probably will be the inevitable consequence of cultivation.

*Report of General Knox, Secretary of War, to the President of the United States, 4th January, 1790.**

SAME SUBJECT AS THE PRECEDING.

The various opinions which exist on the proper mode of treating the Indians, require that some system should be established on the subject.

That the Indians possess the natural rights of man, and that they ought not wantonly to be divested thereof, cannot be well denied.

- 20 Were these rights ascertained and declared by law; were it enacted that the Indians possess the right to all their territory which they have not fairly conveyed, and that they should not be divested thereof, but in consequence of open treaties made under the authority of the United States, the foundation of peace and justice would be laid.

The individual States claiming or possessing the right of pre-emption to territory inhabited by Indians, would not be materially injured by such a declarative law; the exercise of their right would be restrained only when it should interfere with the general interests.

Should any State, having the right of pre-emption, desire to purchase territory, which the Indians should be willing to relinquish, it would have to request the General Government to direct a treaty for that purpose, at the expense, however, of the individual State requesting the same.

- 30 But as Indian wars almost invariably arise in consequence of disputes relative to boundaries or trade, and as the rights of declaring war, making treaties and regulating commerce, are vested in the United States, it is highly proper they should have the sole direction of all measures for the consequences of which they are responsible.

General Knox, Secretary of War, to the Governor of the State of New York.†

RIGHT OF THE STATE OF NEW YORK TO THE PRE-EMPTION OF LANDS WITHIN ITS LIMITS—DISAVOWAL BY THE FEDERAL GOVERNMENT OF ACTS OPPOSED TO THIS RIGHT.

WAR DEPARTMENT, August 17th, 1791.

- SIR,—The President of the United States has commanded me to transmit to your Excellency, an extract of the report of Colonel Timothy Pickering, who acted as the commissioner of the
40 United States, at a late council held with the five nations of Indians at the Painted Post, on the Susquehannah. The object of the said Council was, to conciliate the said Indians and attach them

* American State Papers—Indian Affairs, Vol. 1, p. 61.

† *Ibid.*, p. 169.

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to the United States; to prevent them listening to, or being combined with, the Western hostile Indians. The more effectually to carry this design into execution, it was thought proper to draw them to a greater distance from the theatre of war, and at a critical period to hold out an object of employment for the minds of their young men who are with difficulty restrained from indulging their ruling passion for war.

These objects appear to have been executed with ability and judgment, and good consequences may be expected to flow from the council.

But it appears, that the Commissioner's desire to accomplish the objects of his commission in the greatest degree, has led him, incautiously, at the earnest request of the Cayugas present, to ratify and confirm a certain lease of lands, belonging to the Cayuga nation of Indians, to John Richardson, and to certify that a certain assignment of the Seneca Indians, to the daughters of Ebenezer Allen, was done at a public treaty, held under the authority of the United States. No copies, however, of either instrument, have been retained, or produced by the said Commissioner. 10

The right of the State of New York, to the pre-emption of the Cayuga lands, is unquestioned, and also, that the said right embraces all possible alienations of the said lands by the Indians, with the concurrence of the United States, according to the constitution and laws.

Therefore, I do, by the command of the President of the United States, hereby transmit to your Excellency an explicit disavowal of the conduct of the said Commissioner, relative to the said lease of the Cayuga lands to John Richardson, and also of the certificate relative to the Senecas' assignment of lands, to the children of Ebenezer Allen; and I am further ordered to inform your Excellency, that the said acts of the said Commissioner were unauthorized by his instructions, and will be considered as entirely null and void by the United States. 20

But if however, the State of New York should judge that it would derive any benefit from the due execution of said lease, the Executive authority of the United States will do everything which may be proper, upon the occasion. Colonel Pickering, who is going to New York, will personally wait upon your Excellency, to give you any further explanations which you may request.

I have the honor to be, etc.,

His Excellency Governor Clinton.

H. K.

ACKNOWLEDGMENT BY THE UNITED STATES OF THE PROPERTY OF THE INDIANS IN LANDS RESERVED TO THEM BY TREATY WITH THE STATE OF NEW YORK. 30

*A Treaty between the United States of America and the Six Nations, concluded at Canandaigua in the State of New York, 11th November, 1794.**

The President of the United States having determined to hold a conference with the Six Nations of Indians, for the purpose of removing from their minds all causes of complaint, and establishing a firm and permanent friendship with them; and Timothy Pickering being appointed sole agent for that purpose; and the agent having met and conferred with the sachems, chiefs and warriors, of the Six Nations, in a general council. Now, in order to accomplish the good design of this conference, the parties have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the Six Nations. 40

Article 1.—Peace and friendship are hereby firmly established, and shall be perpetual, between the United States and the Six Nations.

Article 2.—The United States acknowledge the lands reserved to the Oneida, Onondaga and Cayuga nations, in their respective treaties with the State of New York, and called their reserva-

* American State Papers—Indian Affairs, Vol. 1, p. 545.

tions, to be their property ; and the United States will never claim the same, nor disturb them, or either of the Six Nations, nor their Indian friends residing thereon, and united with them, in the free use and enjoyment thereof ; but the said reservations shall remain theirs, until they choose to sell the same to the people of the United States who have the right to purchase. * *

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CLAIM OF THE STATE OF GEORGIA TO RIGHT OF PRE-EMPTION OF ALL LANDS WITHIN HER LIMITS.

*Act of the State of Georgia, 7th January, 1795.**

An Act supplementary to an Act entitled "An Act for appropriating a part of the unlocated territory of this State for the payment of the late State troops, and for other purposes therein mentioned," declaring the right of this State to the unappropriated territory thereof, for the protection and support of the Frontiers of this State, and for other purposes.

Whereas, in and by the articles of Confederation entered into and finally ratified on the first day of March, one thousand seven hundred and eighty-one, by the then thirteen United States of America, the territory within the limits of each of the said States is, to each of them, respectively, confirmed and guaranteed, first, by the second article, to wit: "Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not, by the Confederation, expressly delegated to the United States in Congress assembled;" and, secondly, by the last clause, in the second section, of the ninth article: "No State shall be deprived of territory for the benefit of the United States;" and whereas, in and by the Definitive Treaty of Peace, signed at Paris on the third day of September, one thousand seven hundred and eighty-three, the boundaries of the United States are established, and those boundaries which limit the westwardly and south-westwardly parts of this State, are therein thus defined: "Along the middle of the river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south by a line drawn due east, from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola, or Chatahoochee; thence along the middle thereof, to its junction with the Flint river; thence straight to the head of St. Mary's river, and thence down along the middle of St. Mary's river to the Atlantic Ocean;" which boundaries coincide with the southwardly and westwardly boundaries recited in the land Act now in force, passed at Savannah, on the seventeenth day of September, one thousand seven hundred and eighty-three; and by the convention held at Beaufort, on the twenty-eighth day of April, one thousand seven hundred and eighty-seven, between this State and the State of South Carolina, the northern boundary of the State is established, "from the mouth of the river Savannah, up the said river, to the confluence of Tugelo and Keowee; thence up the Tugelo, and from the source thereof, a due west line to the Mississippi, including islands." And whereas, in and by the first clause of the sixth article of the Federal Constitution of the United States of America, all engagements entered into before the adoption of the said constitution, shall be as valid against the United States under the said constitution as under the confederation; by the third clause of the ninth section of the first article of the said constitution, "No *ex post facto* law shall be passed;" and, by the second clause of the third section of the fourth article, "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property, belonging to the United States, and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

And whereas the cession made by the State of North Carolina to the United States, by them accepted on the second day of April, one thousand seven hundred and ninety, is a full acknowledgment and recognizal, on their part, that the several States not only have the right of pre-emption, but are in the full exercise of all territorial right within their respective limits: And whereas, notwithstanding, the United States did, on the twenty-second day of July, one thousand seven hundred and ninety, by an Act to regulate trade and intercourse with the Indian tribes, enact and

* American State Papers - Indian Affairs, Vol. 1, pp. 552, 553.

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declare, "That no sale of lands made by Indians, or any tribe or nation of Indians within the United States, shall be valid to any person or persons, or to any State, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty held under the authority of the United States;" and did, on the seventh day of August, one thousand seven hundred and ninety, by a treaty held at New York with certain Creek Indians, stipulate, by the fourth article of the said treaty, that the boundary between the citizens of the United States and the Creek nation is, and shall be, "from where the old line strikes the Savannah; thence up the said river to a place on the most northern branch of the same, commonly called the Keowee, where a north-east line, to be drawn from the top of the Ocunna Mountain, shall intersect; thence along the said line in a south-west direction, to the Tugelo river; 10 thence to the top of the Currahee mountain; thence to the head or source of the main south branch of Oconee river, called the Apalachy river; thence down the middle of the main south branch and river Oconee, to its confluence with the Oakmulgee, which form the river Altamaha; and thence down the middle of the said Altamaha to the old line on the said river; and thence along the said line to the river St. Mary's;" and by the fifth article, "That the United States solemnly guarantee to the Creek nation all their lands within the limits of the United States, to the westward and southward of the boundary described in the preceding article."

And, finally, whereas the State of Georgia aforesaid, hath, by no Act, or in any manner whatever, transferred, alienated, or conveyed, her right of soil or pre-emption, in any part of the vacant territory within the limits of the said State to the United States, the cession dated the first day of 20 February, one thousand seven hundred and eighty-eight, offered by the State of Georgia to the United States, having been, by the said United States in Congress assembled, on the fifteenth day of July, one thousand seven hundred and eighty-eight, rejected, in which rejection territorial rights are declared to rest on the spirit and meaning of the confederation. And, whereas, the said proposed cession became void, and, on the part of this State, is hereby declared to be null and void to all intents, purposes and constructions.

Sec. 1. Be it therefore enacted by the Senate and representatives of the Freemen of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same, That the State of Georgia aforesaid, is in full possession, and in the full exercise of the jurisdiction and territorial right, and the fee simple thereof; and that the right of pre-emption to vacant and un- 30 appropriated lands lying westwardly and south westwardly of the present Indian temporary line, and within the limits of the said State, and the fee simple thereof, together with the right of disposing thereof, is, and are hereby declared to be, in the State of Georgia only.

*Message of the President of the United States, communicated to the Senate, June 25th, 1795.**

GENTLEMEN OF THE SENATE,—Just at the close of the last session of Congress, I received from one of the Senators and one of the representatives of the State of Georgia, an application for a treaty to be held with the tribes or nations of Indians claiming the right of soil to certain lands lying beyond the present temporary boundary line of that State, and which were described in an Act of the Legislature of Georgia, passed on the 28th of December last, which has already been laid before the Senate. This application and the subsequent correspondence with the Governor of 40 Georgia, are herewith transmitted. The subject being very important, I thought proper to postpone a decision upon that application. The views I have since taken of the matter, with the information received of a more pacific disposition on the part of the Creeks, have induced me now to accede to the request, but with this explicit declaration: That neither my assent, nor the treaty which may be made, shall be considered as affecting any question which may arise upon the supplementary act passed by the Legislature of the State of Georgia, on the 7th of January last, upon which inquiries have been instituted in pursuance of a resolution of the Senate and House of Representa-

*American State Papers—Indian Affairs, Vol. 1, p. 560.

tives; and that any cession or relinquishment of the Indian claims, shall be made in the general terms of the treaty of New York, which are contemplated as the form proper to be generally used on such occasions; and on the condition that one-half of the expense of the supplies of provisions for the Indians assembled at the treaty be borne by the State of Georgia.

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Having concluded to hold the treaty requested by that State, I was willing to embrace the opportunity it would present of enquiring into the causes of the dissatisfaction of the Creeks, which has been manifested since the treaty of New York, by their numerous and distressing depredations on our south-western frontiers. Their depredations on the Cumberland have been so frequent and so peculiarly destructive, as to lead me to think they must originate in some claim to
10 the lands upon that river. But, whatever may have been the cause, it is important to trace it to its source; for independent of the destruction of lives and property, it occasions a very serious annual expense to the United States. The Commissioners for holding the proposed treaty will, therefore, be instructed to enquire into the causes of the hostilities to which I have referred, and to enter into such reasonable stipulations as will remove them, and give permanent peace to those parts of the United States.

I now nominate Benjamin Hawkins, of North Carolina, George Clymer, of Pennsylvania, and Andrew Pickens, of South Carolina, to be Commissioners to hold a treaty with the Creek nation of Indians, for the purposes hereinbefore expressed.

GEORGE WASHINGTON.

20 United States, June 25th, 1795.

EXTINGUISHMENT IN FAVOUR OF NEW YORK OF THE CLAIM OF THE SEVEN NATIONS OF CANADA
TO LANDS WITHIN THAT STATE.*

Message of the President of the United States, Communicated to the Senate, May 3rd, 1796.

GENTLEMEN OF THE SENATE,—Some time last year, Jeremiah Wadsworth [Abraham Ogden appears to have been subsequently substituted] was authorized to hold a treaty with the Caughnawaga Indians, styling themselves the Seven Nations of Canada, to enable the State of New York to extinguish, by purchase, a claim which the said Indians had set up, to a parcel of land lying within that State. This negotiation having issued without effecting its object, and the State of New York having requested a renewal of the negotiation, and the Indians having come forward
30 with an application on the same subject, I now nominate Jeremiah Wadsworth, to be a Commissioner to hold a treaty with the Caughnawaga Indians, styling themselves the Seven Nations of Canada, for the purpose of enabling the State of New York to extinguish the aforesaid claim.

United States, May 2, 1796.

GEORGE WASHINGTON.

23rd May, 1796.

The deputy, Thomas Williams, being confined to his lodging in the city by sickness, was unable to be present. The other three deputies proposed, nevertheless, to proceed to the business of the treaty. The Commissioner thereupon informed them, generally, that he was appointed to hold the treaty; that the sole object of it was to enable the State of New York to extinguish, by purchase, the claim or right of these nations or tribes of Indians to lands within the limits of the
40 State, and that, agreeably to his instructions from the President, he would take care that the negotiation for that purpose between the agents of the State, and the deputies for the Indians, should be conducted with candour and fairness.

Speech of the Agents to the Deputies.

30th May, 1796.

BROTHERS,— . . . If you had seasonably informed the State of your claim, they might then have reserved lands for your use to any extent which might have been judged proper; but they

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have now sold all the lands in that quarter to Mr. Macomb, and as reservations cannot be made without the consent of the persons who have purchased from him, we have spoken to them on the subject, and they have consented we should further offer to you, that a convenient tract, at each place where the mills are built, and the meadows on both sides of the Grass River, although they may hereafter be discovered not to be within the above tract, equal to six miles square, shall be reserved to the use of the St. Regis Indians.

31st May, 1796.

The Deputies having declared their acceptance of the compensation as proposed to them by the Agents, three Acts, of the same tenor and date, one to remain with the United States, another to remain with the said Seven Nations or tribes, and another to remain with the State, were thereupon this day executed by the Commissioners of the United States, the Deputies for the Indians, the Agents for the State, and Daniel McCormick and William Constable, for themselves and their associates, purchasers under Alexander Macomb, containing a cession, release, and quit claim from the said Seven Nations or tribes of Indians, of all lands within the State; and a covenant from the State for the payment of the said compensation, and also certain reservations of land, to be applied to the use of the Indians of the Village of St. Regis, as by the said acts, reference being had to either of them, will more fully appear. 10

The act referred to above, and to remain with the United States, accompanies this report.

ALEX. OGDEN.

The Treaty.

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At a treaty held at the City of New York, with the nations or tribes of Indians, denominating themselves the Seven Nations of Canada, Abraham Ogden, Commissioner appointed under the authority of the United States, to hold the treaty; Ohnawiiio, *alias* Good Stream, Teholagwanegen, *alias* Thomas Williams, two Chiefs of the Caughnawagas, Oteatohatongwan, *alias* Colonel Lewis Cooke, a Chief of the St. Regis Indians, and William Gray, Deputies, authorized to represent these Seven Nations or Tribes of Indians at the treaty, and Mr. Gray serving also as interpreter; Egbert Benson, Richard Varick, and James Watson, Agents for the State of New York; William Constable and Daniel McCormick, purchasers under Alexander Macomb.

The agents for the State having, in the presence, and with the approbation of the Commissioner, proposed to the deputies of the Indians, the compensation hereinafter mentioned, for the extinguishment of their claim to all lands within the State, and the said deputies being willing to accept the same, it is thereupon granted, agreed and concluded between the said deputies, and the said agents, as follows: 30

The said deputies do, for and in the name of the said Seven Nations, or tribes of Indians, cede, release, and quit claim, to the people of the State of New York, forever, all the claim, right, or title of them, the said Seven Nations or tribes of Indians, to lands within the said State: Provided, nevertheless, that the tract, equal to six miles square, reserved in the sale made by the Commissioners of the Land Office of the said State, to Alexander Macomb, to be applied to the use of the Indians of the Village of St. Regis, shall still remain so reserved. The said agents do, for and in the name of the people of the State of New York, grant to the said Seven Nations or tribes of 40 Indians, that the people of the State of New York shall pay to them, at the mouth of the River Chazy, on Lake Champlain, on the third Monday in August next, the sum of one thousand two hundred and thirty-three pounds, six shillings and eight pence, and the further sum of two hundred and thirteen pounds six shillings and eight pence, lawful money of said State; and on the third Monday in August, yearly forever thereafter, the like sum of two hundred and thirteen pounds six shillings and eight pence: Provided, nevertheless, that the people of the State of New York shall not be held to pay the said sums, unless in respect to the two sums to be paid on the third Monday in August next, at least twenty, and in respect to the said yearly sum to be paid there-

after, at least five of the principal men of the said Seven Nations or tribes of Indians shall attend as deputies to receive and to give receipts for the same. The said deputies having suggested that the Indians of the Village of St. Regis have built a mill on Salmon River, and another on Grass River, and the meadows on Grass River are necessary to them for hay, in order, therefore, to secure to the Indians of the said village the use of the said mills and meadows, in case they should hereafter appear not to be included within the above tract, so to remain reserved: It is therefore also agreed and concluded between the said deputies, the said agents, and the said William Constable and Daniel McCormick, for themselves and their associates, purchasers under the said Alexander Macomb, of the adjacent lands, that there shall be reserved, to be applied to the use of the Indians of the said Village of St. Regis, in like manner as the said tract is to remain reserved, a tract of one mile square at each of the said mills, and the meadows on both sides of the said Grass River, from the said mill thereon, to its confluence with the River St. Lawrence.

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In testimony whereof, the said commissioner, the said deputies, the said agents, and the said William Constable and Daniel McCormick, have hereunto, and to two other acts of the same tenor and date, one to remain with the United States, another to remain with the State of New York, and another to remain with the said Seven Nations or tribes of Indians, set their hands and seals, in the City of New York, the thirty-first day of May, in the twentieth year of the Independence of the United States, one thousand seven hundred and ninety-six.

(Signed as aforementioned).

EXTINGUISHMENT IN FAVOUR OF NEW YORK OF ALL CLAIM OF THE MOHAWK INDIANS TO LANDS WITHIN THAT STATE, 1798.*

Message of the President of the United States, communicated to the Senate on the 12th of April, 1798.

GENTLEMEN OF THE SENATE,—A treaty with the Mowhawk Nation of Indians has, by accident, lain long neglected. It was executed under the authority of the Honourable Isaac Smith, a Commissioner of the United States. I now submit it to the Senate for their consideration.

JOHN ADAMS.

United States, April 12, 1798.

The Treaty.

At a treaty, held under the authority of the United States, with the Mohawk nation of Indians, residing in the Province of Upper Canada, within the dominions of the King of Great Britain:

Present, the Honourable Isaac Smith, Commissioner appointed by the United States to hold this treaty; Abraham Ten Broeck, Egbert Benson, and Ezra L'Hommedieu, agents for the State of New York; Captain Joseph Brandt, and Captain John Deserentyon, two of the said Indians, and deputies to represent the said nation at this treaty.

The said agents having, in the presence, and with the approbation of, the said commissioner, proposed to, and adjusted with, the said deputies, the compensation as hereinafter mentioned, to be made to the said nation, for their claim to be extinguished by this treaty, to all lands within the said State; it is, thereupon finally agreed and done, between the said agents, and the said deputies, as follows, that is to say:

The said agents do agree to pay to the said deputies the sum of one thousand dollars for the use of the said nation, to be by the said deputies, paid over to, and distributed among, the persons and families of the said nation, according to their usages; the sum of five hundred dollars for

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the expenses of the said deputies, during the time they have attended this treaty ; and the sum of one hundred dollars, for their expenses in returning, and for conveying the said sum of one thousand dollars to where the said nation resides ; and the said agents do accordingly, for, and in the name of, the people of the State of New York, pay the said three several sums to the said deputies, in the presence of the said commissioner ; and the said deputies do agree to cede and release, and these presents witness, that they accordingly do, for, and in the name of, the said nation, in consideration of the said compensation, cede and release, to the people of the State of New York, forever, all the right or title of the said nation to lands within the said State ; and the claim of the said nation to lands within the said State, is hereby wholly and finally extinguished.

In testimony whereof, the said commissioner, the said agents, and the said deputies, have here- 10
unto, and to two other acts, of the same tenor and date, one to remain with the United States, one to remain with the said State, and one delivered to the said deputies, to remain with the said nation, set their hands and seals, at the City of Albany, in the said State, the twenty-ninth day of March, in the year one thousand seven hundred and ninety-seven.

(Signed as aforementioned).

EXTINGUISHMENT IN FAVOUR OF NEW YORK OF THE CLAIMS OF THE SENECA INDIANS TO CERTAIN
LANDS WITHIN THAT STATE, 1797.*

Message of the President of the United States, communicated to the Senate, March 2, 1797.

GENTLEMEN OF THE SENATE,—Application having been made to me, to permit a treaty to be held with the Seneca nation of Indians, to effect the purchase of a parcel of their land, under a 20
pre-emption right derived from the State of Massachusetts, and situated within the State of New York, and it appearing to me reasonable that such opportunity should be afforded, provided the negotiations shall be conducted at the expense of the applicant, and at the desire and with the consent of the Indians, always considering these as pre-requisites, I now nominate Isaac Smith to be a Commissioner to hold a treaty with the Seneca Nation, for the aforesaid purpose.

GEO. WASHINGTON.

United States, March 2nd, 1797.

Message of the President, communicated to the Senate, December 6, 1797.

GENTLEMEN OF THE SENATE,—Isaac Smith, Esq., who was appointed with the advice and consent of the Senate, to hold a treaty with the Seneca Nation of Indians, to superintend the purchase of a parcel of their land, under a right of pre-emption, derived from the State of Massa- 30
chusetts, and situated within the State of New York, having declined that service, Jeremiah Wadsworth, Esq., was appointed during your recess, to hold a treaty, which has terminated in a deed of bargain and sale, herewith submitted to your consideration.

It being represented to me that the immediate investment in bank stock, of the moneys which are to be the consideration of this deed, might be attended with considerable loss to the Indians, by raising the market price of that article, it is suggested whether it would not be expedient that the ratification should be made conclusive and binding on the parties, only after the President shall be satisfied that the investment of the moneys has been made conformably to the intention of the 40
treaty.

JOHN ADAMS.

United States, December 6th, 1797.

Contract entered into under the sanction of the United States of America, between Robert Morris and the Seneca Nation of Indians.

This indenture, made the fifteenth day of September, in the year of our Lord one thousand seven hundred and ninety-seven, between the Sachems, Chiefs and Warriors of the Seneca Nation

of Indians of the first part, and Robert Morris, of the City of Philadelphia, Esquire, of the second part.

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Whereas the Commonwealth of Massachusetts have granted, bargained and sold unto the said Robert Morris, his heirs and assigns, forever, the pre-emptive right, and all other the right, title, and interest which the said Commonwealth had to all that tract of land hereinafter particularly mentioned, being part of a tract of land lying within the State of New York, the right of pre-emption of the soil whereof, from the native Indians, was ceded and granted by the said State of New York, to the said Commonwealth; and whereas, at a treaty held under the authority of the United States, with the said Seneca Nation of Indians, at Genesee, in the County of Ontario, and State
10 of New York, on the day of the date of these presents, and on sundry days immediately prior thereto, by the Honourable Jeremiah Wadsworth, Esquire, a Commissioner appointed by the President of the United States to hold the same, in pursuance of the Constitution, and of the Act of the Congress of the United States, in such case made and provided, it was agreed, in the presence and with the approbation of the said Commissioner, by the Sachems, Chiefs and Warriors of the said nation of Indians, for themselves, and in behalf of their nation, to sell to the said Robert Morris, and to his heirs and assigns, forever, all their right to all that tract of land above recited, and hereinafter particularly specified, for the sum of one hundred thousand dollars, to be by the said Robert Morris vested in the stock of the Bank of the United States, and held in the name of the President of the United States, for the use and behoof of the said nation of Indians, the said
20 agreement and sale being also made in the presence and with the approbation of the Honourable William Shepard, Esquire, the Superintendent appointed for such purpose, in pursuance of a resolve of the General Court of the Commonwealth of Massachusetts, passed the eleventh day of March, in the year of our Lord one thousand seven hundred and ninety-one.

Now this indenture witnesseth . . . that the said parties, of the first part, for and in consideration of the premises above recited, and for divers other good and valuable considerations them thereunto moving, have granted, bargained, sold, aliened, released, enfeoffed, and confirmed; and by these presents do grant, bargain, sell, alien, release, enfeoff, and confirm, unto the said party of the second part, his heirs and assigns, forever, all that certain tract of land, except as is hereinafter excepted, lying within the county of Ontario, and State of New
30 York, being part of a tract of land, the right of pre-emption whereof was ceded by the State of New York to the Commonwealth of Massachusetts, by deed of cession executed at Hartford, on the sixteenth day of December, in the year of our Lord one thousand seven hundred and eighty-six, being all such part thereof as is not included in the Indian purchase made by Oliver Phelps and Nathaniel Gorham, and bounded as follows, to wit: easterly by the land confirmed to Oliver Phelps and Nathaniel Gorham by the Legislature of the Commonwealth of Massachusetts, by an act passed the twenty-first day of November, in the year of our Lord one thousand seven hundred and eighty-eight; southerly, by the north boundary line of the State of Pennsylvania; westerly, partly by a tract of land, part of the land ceded by the State of Massachusetts to the United States, and by them sold to Pennsylvania, being a right angled triangle,
40 whose hypotenuse is in or along the shore of lake Erie; partly by lake Erie, from the northern point of that triangle to the southern bounds of a tract of land one mile in width, lying on and along the east side of the strait of Niagara, and partly by the said tract to lake Ontario; and on the north by the boundary line between the United States and the King of Great Britain; excepting, nevertheless, and always reserving out of this grant and conveyance, all such pieces or parcels of the aforesaid tract, and such privileges thereunto belonging, as are next hereinafter particularly mentioned, which said pieces or parcels of land so excepted, are, by the parties to these presents, clearly and fully understood to remain the property of the said parties of the first part, in as full and ample manner as if these presents had not been executed: that is to say, excepting and reserv-
50 ing to them, the said parties of the first part, and their nation, one piece or parcel of the aforesaid tract, at Canawagus, of two square miles, to be laid out in such manner as to include the village, extending in breadth one mile along the river; one other piece or parcel at Big Tree, of two square miles, to be laid out in such manner as to include the village, extending in breadth along

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the river one mile. [Here follow descriptions of other parcels reserved]. Also, excepting and reserving to them, the said parties of the first part and their heirs, the privilege of fishing and hunting on the said tract of land hereby intended to be conveyed. And it is hereby understood by and between the parties to these presents, that all such pieces or parcels of lands as are hereby reserved, and are not particularly described as to the manner in which the same are to be laid off, shall be laid off in such manner as shall be determined by the sachems and chiefs residing at or near the respective villages where such reservations are made, a particular note whereof to be endorsed on the back of this deed, and recorded therewith, together with all and singular the rights, privileges, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining. And all the estate, right, title, and interest, whatsoever, of them the said parties of the first part and their nation, of, in, and to the said tract of land above described, except as is above excepted. To have and to hold all and singular the said granted premises, with the appurtenances to the said party of the second part, his heirs and assigns, to his and their proper use, benefit, and behoof forever. 10

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

(Signed by Robert Morris, by his Attorney, Thomas Morris, also by fifty-two Sachems, Chiefs and Warriors of the Seneca Nation of Indians).

Done at a full and general treaty of the Seneca Nation of Indians, held at Genesee, in the County of Ontario, and State of New York, on the fifteenth day of September, in the year of our Lord one thousand seven hundred and ninety-seven, under the authority of the United States. 20

In testimony whereof, I have hereunto set my hand and seal, the day and year aforesaid.

JEREMIAH WADSWORTH.

CESSION BY THE ONEIDA INDIANS TO THE STATE OF NEW YORK, OF LANDS RESERVED TO THEM WITHIN THAT STATE, 1798.*

Message of the President of the United States, communicated to the Senate, May 3, 1798.

GENTLEMEN OF THE SENATE:—His Excellency John Jay, Esq., Governor of New York, has informed me, that the Oneida tribe of Indians have proposed to sell a part of their land to the said State, and that the Legislature, at their late session, authorized the purchase; and to accomplish this object, the Governor has desired that a commissioner may be appointed to hold a treaty with the Oneida tribe of Indians, at which the agents of the State of New York may agree with them on the terms of the purchase, I, therefore, nominate Joseph Hopkinson, Esq., of Pennsylvania, to be the commissioner to hold a treaty with the said Oneida tribe of Indians, for the purpose above mentioned. 30

JOHN ADAMS.

United States, May 3rd, 1798.

The Treaty.

At a treaty held with the Oneida nation or tribe of Indians, at their village, in the State of New York, on the first day of June, in the year one thousand seven hundred and ninety-eight: Present, Joseph Hopkinson, commissioner, appointed under the authority of the United States to hold the treaty; Egbert Benson, Ezra L'Hommedieu, and John Taylor, agents for the State of New York. 40

The said Indians having, in the month of March last, proposed to the Governor of the said State, to cede the lands hereinafter described, for the compensation hereinafter mentioned; and the

*American State Papers—Indian Affairs, Vol. 1, pp. 636, 641.

said Governor having acceded to the said proposal, and advanced to the said Indians, at their desire, in part payment of the said compensation, three hundred dollars, to answer their then immediate occasions, the said cession is, thereupon, in the presence, and with the approbation of the said commissioner, carried into effect at this treaty; which hath, on the request of the said Governor, been appointed to be held for the purpose, as follows, that is to say: The said Indians do cede, release, and quit claim to the people of the State of New York, forever, all the lands within their reservation, to the westward and southwestward of a line from the northeastern corner of the lot No. 54, in the last purchase from them, running northerly to a button-wood tree, marked on the east side "Oneida R. 1798," on the west side, "H. P. S. 1798," and on the south side, with
10 three notches and a blaze, standing on the bank of the Oneida Lake, in the southern part of a bay called Newageghkoo; also, a mile on each side of the main Genesee road, for the distance of one mile and a half, westward, to commence at the eastern boundary of their said reservation; and, also, the same breadth for the distance of three miles, on the south side, and of one mile on the north side of the said road, eastward, to commence at the eastern boundary of the said lot No. 54. Provided and excepted, nevertheless, that the following Indian families, viz: Sarah Docksteder, Cornelius Docksteder, Jacob Docksteder, Lewis Denny, John Denny, Jan Joost, and Nicholas, shall be suffered to possess, of the tract first above-mentioned, the grounds cultivated by them, respectively, and their improvements, not exceeding fifty acres to each family, so long as they shall reside there, and in consideration of this proviso and exception, the said Indians do further cede that a
20 tract of twelve hundred and eighty acres, as follows, that is to say: Beginning in the south-east corner of lot No. 59, in the said last purchase, and running thence east, one mile; thence, north two miles; thence west one mile; and thence, south two miles, shall be considered as set apart by the said nation or tribe, for the use of the said families, whenever they shall remove from where they now reside. The said agents do, for the people of the said State, pay to the said Indians, in addition to the said sum of three hundred dollars, already advanced to them as above-mentioned, the further sum of two hundred dollars, and do grant to the said Indians, that the people of the said State shall pay to the said Indians, at their said village, on the first day of June next, and on the first day of June, yearly, thereafter, the annual sum of seven hundred dollars.

In testimony whereof, the said commissioner, the said agents, and the said Indians, have here-
30 unto and to other acts of the same tenor and date, the one to remain with the United States, another to remain with the State of New York, and another to remain with the said Indians, set their hands and seals, at the village aforesaid, the day and year first above written.

[Signed by the aforementioned Commissioner and Agents and a number of Indians.]

FURTHER CESSION BY THE ONEIDA INDIANS TO THE STATE OF NEW YORK OF LANDS RESERVED
TO THEM WITHIN THAT STATE, 1802.*

At a treaty held with the Oneida nation or tribe of Indians, at their village in the State of New York, on the fourth day of June, in the year of our Lord one thousand eight hundred and two.

Present, John Tayler, Esq., agent appointed under the authority of the United States, to hold
4) the treaty, and Ezra L'Hommedieu and Simeon De Witt, agents for the State of New York. The said Indians having, by their sachems, chiefs, and warriors, in the month of March last, proposed to the Governor of the said State to cede the lands hereinafter described, for the compensation hereinafter mentioned; and the said Governor, together with the surveyor-general of the said State and Ezra L'Hommedieu, Esq., agent appointed by the said Governor, pursuant to concurrent resolutions of the Senate and Assembly of the said State, bearing date the 23rd, and 24th days of February last, having acceded to the proposal of the said sachems, chiefs, and warriors, and on the fifth day of the said month of March, executed a provisional agreement with them, for the cession

* American State Papers—Indian Affairs, Vol. 1, p. 664.

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and purchase of the same, and advanced to them, at their desire, in part payment of the said compensation, three hundred dollars, to answer the immediate occasions of the said Indians; the said cession is, thereupon, in the presence, and with the approbation of the said commissioner, carried into effect at this treaty, which hath, on the request of the said Governor, been appointed to be held for the purpose, as follows, that is to say:

The said Indians do cede, release and quit claim to the people of the State of New York, forever, the several tracts or parcels of land hereinafter described, being parts of the lands heretofore reserved to the said Oneida nation of Indians, to wit: [Here follow descriptions of several parcels.] Also, all that part of the land heretofore reserved by the said Oneida nation of Indians, along the Fish creek, which lies to the northward of the bridge over said creek, commonly called and known by the name of Bloomfield's bridge. 10

The said agents do, for the People of the State of New York, in conformity to the said provisional agreement, pay to the said Indians, in addition to the said sum of three hundred dollars, already advanced to them as above mentioned, the further sum of six hundred dollars, and do grant to the said Indians, that the People of the said State shall, annually, forever hereafter, on such day and place, as are, or shall be appointed for the payment of other annuities to the said Indians, pay to the said Indians the sum of three hundred dollars. And the said agents do further grant to the said Indians, that the People of the State of New York, out of the lands above described, and hereby ceded to them, shall grant to Sarah Docksteder, one hundred acres, to be laid out in a square, adjoining the "the two mile tract," on the road commonly called Klock's road, as the said one hundred acres shall be laid out by order of the Surveyor-general, with the approbation of the said Sarah, to be held to her during her natural life, and thereafter to her heirs in fee; and also, to Michael Kern, one hundred and fifty acres, so as to include the house in which he now resides, with the other improvements made by him around the same. 20

In testimony whereof, the said commissioner, the said agents, and the said Indians, have hereunto, and to other acts of the same tenor and date, the one to remain with the United States, another to remain with the State of New York, and another to remain with the said Indians, set their hands and seals, at the village aforesaid, the day and year first above written.

JOHN TAYLER,
EZRA L'HOMMEDIEU, etc.

30

EXTINGUISHMENT IN FAVOUR OF NEW YORK OF THE CLAIM OF THE SENECA INDIANS TO CERTAIN
LANDS WITHIN THAT STATE, 1802.

*Act of the State of New York, passed 19th March, 1802.**

An Act for holding a Treaty with the Seneca Nation of Indians, establishing a Military Post near Lake Erie, and for other purposes.

Whereas it is necessary that a treaty be held with the Seneca nation of Indians, to extinguish their claims to lands east of Lake Erie, to enable this State to cede their jurisdiction, or sell to the United States, a sufficient quantity of the said lands, at the eastern extremity of Lake Erie, at a place called the Black Rock, as may be sufficient for the establishment of a military post: Therefore, 40

Be it enacted by the people of the State of New York, represented in Senate and Assembly, That it shall and may be lawful for the person administering the Government of this State, or his agent or agents, to hold a treaty (on the part of the people of this State) with the Seneca nation of Indians, to extinguish their claim to the whole, or such part of their lands, at the east end of Lake Erie, of one mile wide on Niagara River, from Buffalo Creek to Stedman's farm, including

* American State Papers—Indian Affairs, Vol. 1, p. 668.

Black Rock, with so much land adjoining as shall be sufficient for establishing a military post, on such payments and annuities as he or they shall judge most conducive to the interest of this State.

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And be it further enacted, That it shall and may be lawful for the person administering the Government of this State, for and on behalf of this State, to convey to the United States, after the extinguishment of the claim of the said Indians as aforesaid, in fee simple, such part of the said land, at the eastern extremity of Lake Erie, at a place called Black Rock, as may be sufficient for the establishment of a military post; the United States paying therefor the expense of holding the said treaty, or such part thereof as the person administering the Government of this State shall judge reasonable: Provided always, that nothing in the foregoing grant to the United States shall be construed, so as to prejudice the right of portage of the people of this State, along the said river, through the tract of land which may be so conveyed, and the privilege of a road along the shore of Lake Erie, and of a ferry across the Niagara River, at Black Rock. And provided further, that such conveyance shall in no wise prevent the execution of any process, civil or criminal, issuing under the authority of this State, within the bounds of the land so to be conveyed; and such conveyance shall expressly contain such condition.

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And be it further enacted, That it shall and may be lawful for the person administering the Government of this State, or his agent or agents, at the said treaty, to purchase from the Cayuga and Onondaga nations of Indians, all, or such part of their lands, called their reservation lands, on such terms as he or they may deem expedient.

And be it further enacted, That it shall and may be lawful for the person administering the Government of this State, to draw from the treasury, a sum not exceeding five thousand dollars, for defraying the expense of the said treaty, and for paying such part of the purchase money for the said lands as may be necessary.

And be it further enacted, That, in holding the said treaty, it shall and may be lawful for the person administering the Government of this State, or his agent or agents, to stipulate with the said Seneca nation for the granting to Jasper Parrish and Horatio Jones, such quantity of land, not exceeding one mile square to each of them, separately, and to their respective heirs and assigns, forever, at such place or places, within the tract of one mile wide, on Niagara river, as aforesaid, as shall at such treaty be agreed on.

30

*The Treaty.**

At a Treaty held at the city of Albany, in the State of New York, on the twentieth day of August, in the year of our Lord one thousand eight hundred and two, with the Seneca nation of Indians, by their sachems, chiefs, and warriors, whose names are hereunto subscribed, and seals affixed, duly deputed, authorized, and empowered, by the said Seneca nation of Indians for the purpose.

Present:—John Tayler, Esquire, commissioner appointed under the authority of the United States, to hold the treaty, and His Excellency George Clinton, Esquire, Governor of the said State of New York.

The said Seneca nation of Indians, by their said sachems, chiefs, and warriors, agreeably to the authority in them vested by the said nation, for the consideration hereinafter mentioned, do sell, cede, release, and quit claim, to the people of the said State of New York, all that tract of land, of one mile wide, on Niagara river, extending from Buffalo creek to Stedman's farm, including Black Rock, and bounded to the westward by the shore or waters of said river. The said Seneca nation of Indians reserving to themselves, nevertheless, the right and privilege of encamping their fishing parties on the beach of said river, for the purpose of fishing, which is the common right of both

* American State Papers—Indian Affairs, Vol. 1, p. 664.

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parties, and to be enjoyed without hindrance or interruption from either; and while there encamped, to use the drift-wood for fuel, but not to trespass on, or injure, the proprietor or proprietors of the adjacent lands. The said Seneca nation of Indians reserving also, to themselves, the right (which they now enjoy) of passing the ferry across the said Niagara river, at or near Black Rock, or at such other place in the vicinity, where such ferry may hereafter be established and kept, free of ferriage or toll, at all seasonable times, when the boats are crossing with other passengers or freight. And the said George Clinton, Governor aforesaid, doth, for the people of the said State of New York, pay to the said Seneca nation of Indians, the sum of two hundred dollars; and doth grant to the said Indians, that the people of the said State of New York shall pay to them, or their order, at the city of Albany, the further sum of five thousand three hundred dollars; and also, to the value of five hundred dollars, in chintz, calico, and other goods, suitable for their women, on the fifteenth day of February, now next ensuing, in full of the purchase money for said tract of land. And the said Governor doth further grant to the said Indians, that the people of the said State of New York, out of the lands above described, and hereby ceded to them, shall grant to Jasper Parrish, and to his heirs and assigns, forever, one mile square, to begin at the mouth of a creek, known by the name of Scoy-gu-quoides creek, nearly opposite the head of the Grand Isle, on the easterly side of the waters of the outlet of Lake Erie, and to run from thence, up the said creek, as it winds easterly, to the line of the Massachusetts pre-emption; thence along the same, northerly one mile, thence westerly to the waters of the said outlet, and thence along the same to the place of beginning; and also, to Horatio Jones, and to his heirs and assigns, forever, one mile square, to begin at the most easterly corner of the above described lot, in the line of the Massachusetts pre-emption, and to run from thence along the same, northerly, one mile, then westerly to the waters of the outlet of Lake Erie, thence along the same to the northerly corner of the aforesaid lot, and thence along the northerly bounds thereof to the place of beginning.

And the said Governor, at the request of the said Indians, expressed by their chiefs and warriors, and from a desire of accomodating them, doth engage, that it shall be recommended to the Legislature, to provide, by law, for the passing of the said Seneca and other Indians of the said Six Nations, on their own proper business, on and along any turn-pike road, which may be hereafter established from the town of Canadarque to Buffalo creek, or its vicinity, or over any bridge that may be erected between those places, toll free.

In testimony whereof, the said commissioner, the said Governor, and the said chiefs and warriors of the Seneca nation of Indians, have hereunto, and to other acts of the same tenor and date, the one to remain with the United States, another to remain with the State of New York, and another to remain with the said Indians, set their hands and seals, at the city of Albany aforesaid, the day and year first above written.

JOHN TAYLER,
GEORGE CLINTON, ETC.

EXTINGUISHMENT IN FAVOUR OF NORTH CAROLINA OF THE CLAIM OF THE TUSCARORA INDIANS TO LANDS WITHIN THAT STATE SET APART BY THE LEGISLATURE FOR THEIR USE, 1802. *

40

Message of the President of the United States, Communicated to the Senate, February 21st, 1803.

GENTLEMEN OF THE SENATE.—The Tuscarora Indians having an interest in some lands within the State of North Carolina, asked the superintendence of the Government of the United States over a treaty to be held between them and the State of North Carolina respecting these lands. William Richardson Davie was appointed a Commissioner for the purpose, and a treaty was concluded under his superintendence. This, with his letter on the subject is now laid before the Senate for their advice and consent, whether it shall be ratified.

February 21st, 1803.

TH. JEFFERSON.

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Whereas, a large part of the Tuscarora nation of Indians reside at so remote a distance from the State of North Carolina that they are unable to derive any benefit from the lands, the use of which had been granted to the nation by the Legislature of that State, so long as they should occupy and live upon the same.

And whereas, the Legislature of the State of North Carolina, in directing the use of the said lands, had heretofore permitted certain leases to be made of part thereof, and difficulties have arisen in the payment and receipt of the rents becoming due thereon.

And whereas, for the purpose of preventing any disputes that might arise respecting the
10 future occupancy of the said lands, or the direction of the use thereof, and to remove the difficulties aforesaid, the President of the United States, by and with the advice and consent of the Senate thereof, hath appointed William Richardson Davie, of North Carolina, Commissioner on the part of the United States, for the purpose aforesaid, and the said William Richardson Davie, on the part of the United States, and the undersigned chiefs, in their own names, and in behalf of the whole Tuscarora nation, have agreed to the following articles, namely :

Article 1.—In consideration of the agreement, on the part of the Legislature of the State of North Carolina, that they will, by certain acts of the General Assembly of said State, facilitate the collection of the rents due, or to become due, on the leases of said lands heretofore made; and on the condition that an act or acts of the General Assembly of the said State shall be passed, authorizing
20 the said Tuscarora nation, or the chiefs thereof in behalf of said nation, to lease, on such terms as they may deem proper, the undemised part of the lands allotted to them in the County of Bertie, in the said State, as well as other parts thereof, now under lease, or leases, for years, so that the term or terms of the leases made of the whole, or any part thereof, may extend to the 12th day of July, which shall be in the year of our Lord one thousand nine hundred and sixteen :

And upon condition also, that the Legislature of the said State shall, by an act or acts for that purpose, remove, as far as the same can be done by legislative interposition, any difficulties or disputes that might arise respecting the future occupancy of said lands, either by the Indians of the said tribe or nation of Tuscaroras, or their lessees and assigns, until the said twelfth day of July, which shall be in the year of our Lord one thousand nine hundred and sixteen; and also declare
30 and enact, that the occupancy and possession of the tenants, under the said leases, heretofore confirmed by act or acts of the General Assembly, and such leases as may be made under the act or acts made in pursuance of this treaty, shall be held and deemed in all cases whatsoever the occupancy and possession of the said Tuscarora nation, to all intents and purposes, as if they, the said nation, or the Indians thereof, or any of them, actually resided on said lands.

The undersigned chiefs, in their own names, and in behalf of the whole of the Tuscarora nation, hereby stipulate and agree, that, from and after the said twelfth day of July, which shall be the year of our Lord one thousand nine hundred and sixteen, all the right, interest, and claim, of the said nation, or any of the Indians thereof, by act of the General Assembly of the State of North Carolina, or otherwise, to the use, possession, or occupancy, of a certain tract of land, allot-
40 ted to them, by the Legislature of the said State, situated in the County of Bertie, in the State aforesaid, bounded and described as follows, viz : Beginning at the mouth of Quitsnoy swamp, running up the said swamp four hundred and thirty poles, to a scrubby oak, near the head of said swamp, by a great spring; then north, ten degrees east, eight hundred and fifty poles, to a persimmon tree in Roquis swamp, and along the swamp and pocoson, main course north fifty-seven degrees west, two thousand six hundred and forty poles, to a hickory on the east side of the Falling run or Deep creek, and down the various courses of the said run, to Moratlock, or Roanoak River; then down the river to the first station,—shall cease and determine, and shall be held and deemed extinguished for ever.

Article 2.—This treaty shall be considered as a final and permanent adjustment and settlement
50 of all differences, disputes, and claims, between the State of North Carolina and the said Tusca-

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roration of Indians, as soon as the conditions stipulated in the foregoing article shall be fulfilled on the part of the State of North Carolina, and the treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate of the United States.

In witness of all and everything herein contained, the said William Richardson Davie, and the undersigned chiefs, in behalf of themselves and the Tuscarora nation, have hereunto set their hands and seals.

Done at the City of Raleigh, in the State of North Carolina, on the fourth day of December, in the year one thousand eight hundred and two.

W. R. DAVIE, (L. S.)

And a number of Indians.

EXTINGUISHMENT IN FAVOUR OF SOUTH CAROLINA OF CLAIM OF THE CHEROKEE NATION TO LANDS 10
WITHIN THAT STATE, 1816. *

Articles of a treaty made and concluded at the City of Washington, on the 22nd day of March, 1816, between George Graham, being specially authorized by the President of the United States thereto, and the undersigned chiefs and head men of the Cherokee Nation, duly authorized and empowered by the said nation.

Article 1.—Whereas the Executive of the State of South Carolina has made an application to the President of the United States to extinguish the claim of the Cherokee Nation to that part of their lands which lie within the boundaries of the said State, as lately established and agreed upon between that State and the State of North Carolina; and as the Cherokee Nation is disposed to comply with the wishes of their brothers of South Carolina they have agreed, and do hereby 20 agree, to cede to the State of South Carolina, and forever quit claim to the tract of country contained within the following bounds, viz., beginning on the east bank of the Chattuga River, where the boundary line of the Cherokee Nation crosses the same; running thence with the said boundary line to a rock on the Blue Ridge, where the boundary line crosses the same, and which rock has been lately established as a corner to the States of North and South Carolina; running thence south, $68\frac{1}{4}$ degrees west, 20 miles and 32 chains, to a rock on the Chattuga River, at the 35th degree of north latitude, another corner of the boundaries agreed upon by the States of North and South Carolina; thence down and with the Chattuga, to the beginning.

Article 2.—For and in consideration of the above cession, the United States promise and engage that the State of South Carolina shall pay to the Cherokee Nation, or its accredited agent, 30 the sum of \$5,000, within 90 days after the President and Senate shall have ratified this Treaty. Provided, that the Cherokee Nation shall have sanctioned the same in council. And provided, also, that the Executive of the State of South Carolina shall approve of the stipulations contained in this article.

In testimony whereof, the said commissioner, and the undersigned chiefs and head men of the Cherokee Nation, have hereunto set their hands and seals.

GEORGE GRAHAM,

(Signed also by the Chiefs and head men of the Cherokee Nation.)

DUTIES AND OBLIGATIONS OF MASSACHUSETTS (AND OF MAINE AS HER GRANTEE) TOWARDS THE 40
INDIANS.

Act of the State of Massachusetts, 19th of June, 1819, Sec. 1, Pars. 4th and 5th, forming part of the Constitution of Maine. †

Fourth.—All other property, of every description, belonging to the commonwealth, shall be holden and receivable by the same, as a fund and security for all debts, annuities, and Indian

*American State Papers—Indian Affairs, Vol. 2, p. 88.

†Poore's Constitutions, pp. 801-802.

subsidies or claims, due by said commonwealth; and within two years after the said District shall have become a separate State, the commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property so held by said commonwealth, as an equivalent and indemnification to said commonwealth for all such debts, annuities, or Indian subsidies, or claims, which may then remain due or unsatisfied; and all the surplus of the said property, so holden as aforesaid, shall be divided between the said commonwealth and the said District of Maine, in the proportion of two-thirds to the said commonwealth and one-third to the said District; and if, in the judgment of the said commissioners, the whole of the said property, so held as a fund and security, shall not be sufficient indemnification for the purpose, the said district shall be liable for, and shall pay to said commonwealth one-third of the deficiency.

Fifth.—The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this commonwealth towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this commonwealth of claims and stipulations arising under the treaty at present existing between the said commonwealth and said Indians; and, as indemnification to such new State therefor, this commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State the value of thirty thousand dollars, in manner following, viz.: The said commissioners shall set off, by metes and bounds, so much of any part of the land within the said District falling to this commonwealth, in the division of the public lands hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this commonwealth shall thereupon assign the same to the said new State, or in lieu thereof may pay the sum of thirty thousand dollars, at its election; which election of the said commonwealth shall be made within one year from the time that notice of the doing of the commissioners on this subject shall be made known to the Governor and Council, and if not made within that time, the election shall be with the new State.

INDIAN PURCHASES IN NEW YORK TO BE WITH THE CONSENT OF THE LEGISLATURE.

*Constitution of the State of New York, of 1821—Art. 7, Sec. 12. **

Sec. 12.—No purchase or contract for the sale of lands in the State, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, or with the Indians in this State, shall be valid, unless made under the authority and with the consent of the Legislature.

EXTINGUISHMENT OF THE INDIAN TITLE TO LANDS IN FAVOUR OF CERTAIN STATES.

Message of the President of the United States, communicated to the House of Representatives, February 25th, 1822. †

WASHINGTON, February 23rd, 1822.

TO THE HOUSE OF REPRESENTATIVES,—In compliance with resolution of the House of Representatives “requesting the President of the United States to cause to be reported to this House whether the Indian Title has been extinguished by the United States to any lands, the right of soil in which has been, or is claimed by any particular State; and, if so, the conditions upon which the same has been extinguished,” I herewith transmit a report from the Secretary of War, furnishing all the information in the possession of that department embraced by the resolution.

JAMES MONROE.

* Poore's Constitutions, p. 1348.

† American State Papers—Indian Affairs, Vol. 2, p. 323.

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DEPARTMENT OF WAR,
February 22nd, 1822.

The Secretary of War, to whom was referred the resolution of the House of Representatives, "requesting the President of the United States to cause to be reported to this House whether the Indian title has been extinguished by the United States to any lands, the right of soil in which has been, or is, claimed by any particular State; and, if so, the conditions upon which the same has been extinguished," has the honour to transmit to the President the enclosed statement, prepared by the Second Auditor, accompanied by a letter from the Commissioner of the General Land Office, which contain all the information that can be furnished by this Department upon the several 10 points embraced by the resolution.

All of which is respectfully submitted.

J. C. CALHOUN.

To the President of the United States.

*The Commissioner of the General Land Office to the Secretary of War. **

TREASURY DEPARTMENT, GENERAL LAND OFFICE,
February 20th, 1822.

SIR,—The draughtsman of this office, having carefully examined the enclosed, informs me that it is impossible to make any estimate of the quantity of land embraced by the cessions alluded to, on account of the uncertainty of their boundaries, except in the case of the cession under treaty with the Chickasaws, of the 19th day of October, 1818, where it is estimated that the total quantity 20 embraced by the limits of that cession, agreeably to a calculation of Mellish's map of the United States, is 6,675,840 acres, of which 1,120,000 acres are situated in Kentucky and 5,555,840 in Tennessee. If the boundaries of the cessions could be ascertained with any degree of precision, the information sought would be afforded with pleasure.

I have the honour to be, etc.,

JOSIAH MEIGS.

Honorable J. C. Calhoun, Secretary of War.

A List of Treaties,

*Entered into by the United States, and those concluded under the sanction of the United States by certain States and individuals, with the tribes of Indians, for the purpose of extinguishing 30 the titles of said tribes to certain lands belonging to, and lying within, the limits of particular States.**

[The consideration, in these Treaties, and forming part of the Return, is here omitted as not bearing upon the question at issue.]

IN THE STATE OF NEW YORK.

Between the United States and the Six Nations, concluded at Fort Stanwix, on the 22nd October, 1784.

Between the United States and the Six Nations, at Fort Harmar, on the 9th January, 1789.

Between the United States and the Six Nations, at Canandaigua, on the 11th November, 1794.

Between the United States and the Seven Nations, at New York, the 31st of May, 1796, in 40 the presence of the Agents for the State of New York.

Between Robert Morris [Grantee of the State] and the Seneca Nation under the sanction of United States, on the 15th of September, 1797.

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Between the Warriors of the Senecas and Oliver Phelps and others [Grantees of the States], under the authority of the United States, in the presence of John Taylor, Commissioner appointed by the President of the United States for holding said Treaty, 30th of June, 1802.

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Relinquishment to New York by the Mohawk Indians, under the sanction of the United States, on the 29th March, 1797.

[*Note at the foot of this Treaty, p. 385, Vol. I., of the Laws of the United States.*—At a Treaty held with the Oneidas, at their village, in the State of New York, on the 1st of June, 10 1798, Joseph Hopkinson attending as Commissioner of the United States, there was purchased from the Oneida Nation for the use of the people of New York, a part of the lands reserved for the benefit of the said nation, for which they were paid \$500 in hand, and an annuity allowed of \$700. The Treaty was ratified on the 21st. of February, 1790.]

IN GEORGIA.

Between the United States and the Creek Nation, in the City of New York, on the 7th of August, 1790.

Between the United States and the Creek Nation, concluded the 16th of June, 1802.

Between the United States and the Creek Nation, concluded on the 14th of November, 1805.

Between the United States and the Creek Nation, concluded on the 9th of August, 1814.

20 Between the United States and the Creek Nation, concluded on the 22nd of January, 1818.

Between the United States and the Creek Nation, concluded on the 8th of January, 1821.

Between the United States and the Cherokees east of the Mississippi, and that portion of said nation residing on the Arkansas, 8th July, 1817.

Between the United States and the Cherokees, at the City of Washington, 27th of February, 1819, to carry into effect the foregoing treaty.

By the fourth article of the articles of agreement and cession concluded between the United States and the State of Georgia, on the 24th of April, 1802, the United States, at their own expense, were to extinguish, for the use of Georgia, on reasonable terms, the Indian title to all the other lands within the State of Georgia. But it is proper to observe that this is one of the con-
30 ditions on which, by this agreement between the United States and Georgia, the latter ceded all right, title and claim to the jurisdiction and soil of certain land mentioned, to be formed into a territory or State. The United States were therefore indemnified, in advance, for all expenses incurred in extinguishing the Indian title to all lands within the State of Georgia, in certain treaties made and concluded with the Indians for that purpose. [See the conditions of the treaty, of 16th June, 1802, with the Creeks, and those which follow.]

IN TENNESSEE.

Between the United States and the Cherokees, concluded 2nd October, 1798.

Between the United States and the Cherokees, concluded 25th October, 1805.

Between the United States and the Cherokees, concluded 27th October, 1805.

40 Between the United States and the Cherokees, concluded 8th July, 1817. [See the stipulations of the said treaty under the head of Georgia.]

Between the United States and the Cherokees, concluded 27th of February, 1819. [See the stipulations contained in the said treaty, under the head of Georgia.]

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Between the United States and the Chickasaws, concluded 23rd of July, 1805.

Between the United States and the Chickasaws, concluded 19th of October, 1818.

IN SOUTH CAROLINA.

Between the United States and the Cherokees, concluded 22nd of March, 1816.

IN NORTH CAROLINA.

Between the United States and the Cherokees, concluded 8th July, 1817, and on the 27th of February, 1819. [See said treaties under the head of Georgia.]

IN KENTUCKY.

Between the United States and the Chickasaws, 19th of October, 1818. [See the treaty under the head of Tennessee.]—See No. 193.*

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WILLIAM LEE, *Auditor.*

Report of the Committee on the Public Lands, communicated to the House of Representatives, February 13th, 1823.†

Mr. Rankin, from the Committee on the Public Lands, to whom was referred a message of the President of the United States, in relation to the extinguishment of the Indian Title to lands in any State where the right of soil is claimed by any individual State, &c., (*vide* No. 184‡) reported :

Previous to the 18th of December, 1789, the right of soil in the public domain, in the then district of Kentucky, was vested in the State of Virginia ; at which time the Legislature of Virginia assented to the formation of a free, independent, and sovereign State from said district, now constituting the State of Kentucky. In the Act authorizing the formation of the said State, which contains a compact between the parent State and that to be formed, among other things it was stipulated that the unlocated lands, appropriated by the State of Virginia, on account of military or other services, should be subject to location, and to be disposed of by said State, until the 1st day of May, 1792, after which time, the residue of unlocated lands should be subject to the disposition of the proposed State of Kentucky. From the unquestionable right of Virginia, and from the Act authorizing Kentucky to form a constitution, and by her admission into the Union, the right of soil in the unlocated lands within her limits became vested in the State of Kentucky. 20

On the — day of December, 1789, the State of North Carolina gratuitously ceded to the United States the territory now formed into the State of Tennessee ; and this cession was accepted, subject to certain conditions contained in the deed of cession, ratified by Congress on the 2nd of April, 1790. It was expressly agreed that all grants belonging to the soldiers of the continental line, their heirs and assigns, should be satisfied out of any lands in the ceded territory, after the lands previously set apart for that purpose, fit for cultivation, had been located ; and that all lands granted by, or claimed by entry, occupancy, and pre-emption from the State of North Carolina, should be as valid as though the country had not been ceded to the United States. The right of soil, if any had remained, (which it is believed will not) after providing for the claims recognized as valid by the cession, is in the United States. 30

The States of New York, North Carolina, Kentucky and Tennessee are the only States where the Indian Title has been extinguished, so far as known to your committee, by the United States, without the consideration having been paid by the State within which the lands have been acquired, except within the State of Georgia, where the United States are bound by compact to extinguish the Indian Title. 40

* [No. 193 is the Report of Committee, 13th February, 1823, being the next following document.]

† American State Papers—Indian Affairs, Vol. 2, p. 397.

‡ No. 184 [composed of the preceding four papers.]

After the formation of the Constitution of the United States, the first article of the 10th section was supposed to have prohibited any State from holding a Treaty with the Indians; and the 12th section of the Act of 30th of March, 1802, expressly prohibited them. After the latter period, and in some instances previously, when any State desired a treaty for lands within its limits, commissioners were appointed by the United States, who held the treaty in presence of an agent of the State, and the payment of the purchase money was promised to be made by the State for whose benefit the treaty was made. All these treaties have undergone the usual formalities of ratification directed by the Constitution of the United States. [Here are given the particulars of treaties for extinguishment of Indian claims in New York and of the expenditures consequent thereon.] Your committee do not know that the United States were bound to make these expenditures or that they have ever been reimbursed. [Then follow particulars of treaties for extinguishment of Indian claims in Georgia, Alabama, Tennessee, North Carolina and Kentucky.]

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These several sums expended and to be paid for the extinguishment of Indian Title in the States of North Carolina, Tennessee and Kentucky have not, or any portion of them, as your Committee believe, been refunded to the United States; in all other cases, so far as your Committee have been able to ascertain, the Commissioners on the part of the United States have promised a consideration to be paid by the State which desired the extinguishment, or whose citizens claim the right of soil.

Your Committee, not being directed to bring their enquiries to any Act of legislation, have reported the facts, which was all they conceived it was their duty to do. We, therefore, recommend the adoption of the following resolution:—

Resolved, That the Committee on the Public Lands be discharged from the further consideration of the President's message, in relation to the extinguishment of Indian title to lands, the right of soil in which is claimed by any individual State.

EXTINGUISHMENT OF THE INDIAN CLAIM TO LANDS IN GEORGIA—PRE-EMPTIVE RIGHTS OF THE STATE.

*Report of Committee, communicated to the House of Representatives, January 6th, 1823.**

Mr. McLane from the Committee of Ways and Means, who were instructed by a resolution of the 30th December last, to "enquire into the expediency of making an appropriation adequate to the purchase of the reservations made in favour of the Creek and Cherokee Indians, within the territory ceded to Georgia," reported:—

That, by articles of agreement and cession between the United States and the State of Georgia, the United States became bound "to extinguish, at their own expense, for the use of Georgia, as early as the same can be peaceably obtained on reasonable terms, the Indian title to certain lands, particularly described in the said articles, for which purpose a treaty had been directed to be held with the Creeks;" and, in the same article, it was further stipulated "that the United States shall, in the same manner, also extinguish the Indian title to all the other lands within the State of Georgia."

That, subsequent to the date of this article, the United States, by two several treaties with the Creek Indians, dated the 9th of August, 1814, and 8th of January, 1821, and several treaties with the Cherokees, dated respectively, the 8th of July, 1817, and the 27th of February, 1819, reserved for the use of such Indian families as should choose to settle within the State of Georgia, 640 acres of land, and to their heirs, in fee simple.

It is the title to these reservations which the State of Georgia now desires to have extinguished. They do not lie contiguous to each other, but are dispersed over and in different parts of the State.

* American State Papers—Indian Affairs, Vol. 2, p. 391.

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Over these reserves the Indians have formally abandoned their national jurisdiction; the United States, it is presumed, never had any, and none can be exercised by the State of Georgia, without a recognition of the fee simple title claimed by the Indians, which she supposes inconsistent with her rights under the articles of cession.

Under these circumstances, for a more full development whereof they refer to the report of a select committee made on the 7th January, 1822, the Committee of Ways and Means suppose the United States are under an obligation to interpose and extinguish the Indian title to these reserves, whenever it can be done on reasonable terms, pursuant to the articles of cession heretofore referred to.

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*Letter from the Cherokee Delegation to the President of the United States, dated City of Washington, January 19, 1824.**

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[Extract.]

The Cherokee nation labour under a peculiar inconvenience, from the repeated appropriations which are made for the purpose of holding treaties with them for lands. This circumstance has been productive of much evil to the improvement of the nation in the arts of civilized life, as it cannot be denied that it has retarded its progress by unsettling the prospects of individuals. The Cherokee nation have now come to a decisive and unalterable conclusion not to cede away any more lands; the limits reserved under the treaty of 1819 are not more than sufficient for their comfort and convenience, taking into consideration the great body of mountains and poor lands which can never be settled. It is a gratifying truth that the Cherokees are rapidly increasing in population; therefore, it is an incumbent duty on the nation to preserve, unimpaired, the rights of posterity to the lands of their ancestors. We have told you of the decisive and unalterable disposition of the nation in regard to their lands. Father, we would now beg your interposition with Congress on behalf of your red children the Cherokees, so that provision may be made by law to authorize an adjustment between the United States and the State of Georgia, so that the former may be released from the existing compact so far as it respects the extinguishment of the Cherokee title to lands within the chartered limits of Georgia. 20

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*The President of the United States (through the Secretary of War) to the Cherokee Delegation.**

DEPARTMENT OF WAR,

January 30th, 1824.

GENTLEMEN,—The President has received your letter of the 19th inst., and after giving to it that mature consideration which the importance of the subject to which it refers demands, he has directed me to communicate to you the following answer:

By the compact with Georgia, the United States are bound to extinguish, for the use of the State, the Indian title to lands within the State, as soon as it can be done peaceably, and on reasonable conditions; and the Legislature and Executive of Georgia now press the fulfilment of that stipulation with the utmost possible earnestness. This Government is anxious to fulfil the agreement, provided it can be done on conditions which accord with the import of the compact, and which will also be satisfactory to the Indians. With a view to this object, we wish to have a free communication with you, the chiefs of the Cherokees; and to appeal to the good sense and to the interest of the nation, as pointed out by their own experience, and by that of their ancestors for two centuries back. 40

You must be sensible that it will be impossible for you to remain for any length of time in your present situation, as a distinct society or nation, within the limits of Georgia, or any other

* American State Papers—Indian Affairs, Vol. 2, p. 473.

State. Such a community is incompatible with our system, and must yield to it. This truth is too striking and obvious not to be seen by all of you. Surrounded, as you are, by the people of the several States, you must either cease to be a distinct community, and become, at no distant period, a part of the State within whose limits you are, or remove beyond the limits of any State. For the United States to fulfil the compact with Georgia, the title which you hold to lands, as a distinct community, must be extinguished; and the State objects to the extinguishment of it by vesting in you or in any of you, in lieu thereof, the right of individual ownership. If any of you acquire that right to land, and remain there after the bond which holds you together as a distinct community is dissolved, and your present title is extinguished, it must be by purchasing the property and acquiring the title from the State within which it is.

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- 10 It remains for the Cherokee nation to decide for itself, whether it will contribute most to their own welfare and happiness for them to retain their present title to their lands, and remain where they are, exposed to the discontent of Georgia, and the pressure of her citizens; or to cede it to the United States for Georgia, at a fair price. . . .

I have, etc.,

J. C. CALHOUN.

Messrs. John Ross, George Lowrey, Major Ridge, and Elijah Hicks, Cherokee Delegation.

*Report of Select Committee, communicated to the House of Representatives, April 15th, 1824.**

Mr. Forsyth made the following report:—

- 20 The Select Committee to whom was referred the President's message of the 30th March, with the documents accompanying it, relating to the compact of 1802 between the United States and the State of Georgia, submit to the House, on that message, and on the memorial of the Legislature of the State of Georgia, also referred to them, the following report:—

The State of Georgia claimed, on the establishment of the Independence of the United States, all the lands now forming the States of Georgia, Alabama, and Mississippi, with the exception of those portions of the two last States which formed a part of Florida and Louisiana.

- 30 This claim was founded upon the charter of incorporation of the proprietary Government—on the Royal Commissions issued to the Governors of the State, after the proprietors had surrendered their charter to the crown. This claim was disputed by South Carolina and by the United States. The conflicting claims of South Carolina and Georgia were adjusted by a convention between them, in 1787. The United States recognized by the treaty with Spain of the year 1775, the claim of Georgia; † having refused, in 1788, a cession from the State, on account of the remoteness of the lands and of the terms proposed by Georgia.

In April, 1798, Congress passed a law ‡ in relation to the western part of the territory of Georgia, with a reservation of the rights of Georgia, to the jurisdiction and soil.

In May, 1800, another Act § was passed, containing a similar reservation.

- 40 In December, 1800, Georgia remonstrated against these Acts, as a violation of her right of sovereignty and soil. || The compact of 1802 put an end to the disputes which were likely to arise out of this collision between the general and the State Governments. By this compact, the United States obtained the surrender of the right of Georgia to the sovereignty and soil of two States, containing by estimate 86,000,000 of acres of land, for the paltry consideration of the payment of

* American State Papers—Indian Affairs, Vol. 2, p. 495.

‡ Laws of U.S., Vol. 3, p. 39.

§ *Ibid.*, p. 380.

† Journals of Old Congress, Vol. 13, pp. 49, 50.

|| Public Lands, Vol. 1, No. 206.

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one million two hundred and fifty thousand dollars, out of the proceeds of that land, and a promise to extinguish the Indian title to the land within the territorial limits not ceded to the United States, as soon as it could be done peaceably and on reasonable terms. The execution of this compact produced no change in the right of Georgia to the sovereignty and soil of the land within her newly defined boundaries. Its only effect was to throw upon the United States the expense which might attend the extinguishment of the Indian title; an expense which, but for this compact, must have been borne by the State. Nor did this compact in the slightest circumstance, add to the title of the Indians. It recognized only the claim which they, as Indians, were allowed to have, according to the usages of the States, and the liberal policy adopted towards them by the general Government.

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It is asserted, by the Secretary of War, that there were treaties existing with the Cherokees in 1802, which guaranteed their lands. These guaranties were only of the Indian title, as understood by all at the date of the execution of these treaties—a title of mere occupancy for the purposes of hunting. The idea of title to the soil was, until lately, unknown to the Indians. Their lands were overrun by them, not inhabited; their rights not transferred, but extinguished; dependent upon the will of the power to whom the sovereignty over them belongs. This sovereign power was Georgia, prior to the adoption of the Constitution of the United States. That Constitution gave to the United States the authority to manage the affairs of the Indians, for the peace of the Union and the eventual benefit of Georgia. The Indians had mere occupation; the United States were the agents of Georgia for the extinguishment of this allowed possession. The compact of 1802 required this to be effected out of the general fund. No act of the United States, nor of the Indians, nor of both, could, without her consent, impair the rights of Georgia to the jurisdiction and soil of the territory in question, whenever the Indians should be removed from it, by accident, by contract, or by force. This doctrine is confirmed by the decision of the Supreme Court of the United States, which has declared sales made by States of Indian territory valid prior to the extinguishment of Indian title;* that there is a species of seisin in fee, which enables a State to grant to individuals. In fact, the compact of 1802 is the acknowledgment of the United States of this doctrine, as their only title to the soil of Alabama and Mississippi is founded upon it. The Secretary of War, in his attention to the treaties guarantying the Indian title, has entirely omitted to notice the first and most important document in relation to this subject—the Treaty of Hopewell of 1785; a document sustaining the opinion of the Committee, and giving to it what is now deemed important—the sanction of Indian acquiescence. The fourth article of the Treaty of Hopewell† says:—“The boundary allotted to the Cherokees for their hunting grounds is, and shall be, the following.” The Indians acknowledge by that treaty the United States as their sovereign; and by the ninth article Congress assume for the interest and comfort of the Indians, the power to regulate their trade, and manage all their affairs as they may deem proper. This treaty existed at the adoption of the constitution of the United States; and Georgia as a member of the Union, was vested with the sovereignty and soil of the Cherokee lands, subject only to the Indian right of hunting within the allotted limits; which right the general Government was bound to extinguish as early as the general convenience would permit.

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The duty of the general Government was to do all acts which would accelerate this event; to refrain from all acts which would retard it. Over the Territories of the United States the general Government could rightfully exercise unlimited power in relation to the Indian tribes. Within a particular State, the sole power was that of agency for the preservation of peace, the regulation of trade, and the extinguishment of title. To this general obligation, imposed by the constitution on all the States, a special promise was added in favor of Georgia, in 1802, partially executed; but, to the complete execution of which, difficulties are alleged to exist which require the interposition of the power of Congress.

* Fletcher v. Peck, 6 Cranch, pp. 87, 142.

† Laws of U.S., vol. 1, p. 323.

CONVEYANCE OF RESERVED LANDS OF THE SENECA INDIANS WITHIN THE STATE OF NEW YORK TO
THE ASSIGNEES OF MASSACHUSETTS, ENTITLED TO PRE-EMPTION, 1838.

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*Treaty of 15th January, 1838.**

At a treaty held under the authority of the United States of America, at Buffalo Creek, in the County of Erie, and State of New York, between the chiefs and head men of the Seneca nation of Indians, duly assembled in council, and representing and acting for the said nation, on the one part, and Thomas Ludlow Ogden, of the City of New York, and Joseph Fellows, of Geneva, in the County of Ontario, on the other part, concerning the purchase of the right and claim of the said Indians in and to the lands within the State of New York remaining in their occupation: Ransom
10 H. Gillet, Esquire, a Commissioner appointed by the President of the United States to attend and hold the said treaty, and also Josia Trowbridge, Esquire, the superintendent on behalf of the Commonwealth of Massachusetts, being severally present at the said treaty, the said chiefs and head men, on behalf of the Seneca nation, did agree to sell and release to the said Thomas Ludlow Ogden and Joseph Fellows, and they the said Thomas Ludlow Ogden and Joseph Fellows did agree to purchase all the right, title and claim of the said Seneca nation of, in and to the several tracts, pieces, or parcels of land mentioned, and described in the instrument of writing next hereinafter set forth, and at the price or sum therein specified, as the consideration or purchase money for such sale and release; which instrument being read and explained to the said parties and mutually agreed to, was signed and sealed by the said contracting parties, and is in the words following:

20 This indenture, made this fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty-eight, between the chiefs and head men of the Seneca nation of Indians, duly assembled in council, and acting for and on behalf of the said Seneca nation, of the first part, and Thomas Ludlow Ogden, of the City of New York, and Joseph Fellows, of Geneva, in the County of Ontario, of the second part, witnesseth: That the said chiefs and head men of the Seneca nation of Indians, in consideration of the sum of two hundred and two thousand dollars to them in hand paid by the said Thomas Ludlow Ogden and Joseph Fellows, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released and confirmed, and by these presents do grant, bargain, sell, release and confirm upon the said Thomas Ludlow Ogden and Joseph Fel-
30 lows, and to their heirs and assigns, all that certain tract, or parcel of land situate, lying and being in the County of Erie and State of New York, commonly called and known by the name of Buffalo Creek reservation, containing, by estimation, forty-nine thousand nine hundred and twenty acres, be the contents thereof more or less. Also, all that certain other tract, or parcel of land, situate, lying and being in the Counties of Erie, Chatauque, and Cattaraugus in said State, commonly called and known by the name of Cattaraugus reservation, containing by estimation twenty-one thousand six hundred and eighty acres, be the contents thereof more or less. Also, all that certain other tract, or parcel of land, situate, lying and being in the said County of Cattaraugus, in said State, commonly called and known by the name of the Allegany reservation, containing by estimation thirty thousand four hundred and sixty-nine acres, be the contents more or less. And also, all that
40 partly in the County of Genesee, in said State, commonly called and known by the name of the Tonawando reservation, and containing by estimation twelve thousand, eight hundred acres, be the same more or less; as the said several tracts of land have been heretofore reserved and are held and occupied by the said Seneca nation of Indians, or by individuals thereof, together with all and singular the rights, privileges, hereditaments and appurtenances to each and every of the said tracts or parcels of land belonging or appertaining; and all the estate, right, title, interest, claim, and demand of the said party of the first part, and of the said Seneca nation of Indians, of, in, and to the same, and to each and every part and parcel thereof: to have and to hold all and singular the

*U. S. Statutes at Large, Vol. 7, p. 557.

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above described and released premises unto the said Thomas Ludlow Ogden and Joseph Fellows, their heirs and assigns, to their proper use and behoof forever, as joint tenants, and not as tenants in common.

In witness whereof, the parties to these presents have hereunto and to three other instruments of the same tenor and date, one to remain with the United States, one to remain with the State of Massachusetts, one to remain with the Seneca nation of Indians, and one to remain with the said Thomas Ludlow Ogden and Joseph Fellows, interchangeably set their hands and seals the day and year first above written.

CONVEYANCE OF RESERVED LANDS OF THE TUSCARORA INDIANS WITHIN THE STATE OF NEW YORK TO THE ASSIGNEES OF MASSACHUSETTS, ENTITLED TO THE PRE-EMPTION, 1838.

*Treaty concluded at Buffalo Creek, 15th January, 1838.**

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[Not printed here, being to the same effect as the next preceding.]

DECLARATION OF ORIGINAL AND ULTIMATE PROPERTY IN THE STATE OF NEW YORK TO ALL LANDS WITHIN HER JURISDICTION.

Constitution of the State of New York of 1846, Art. 1. Sec. 11.†

The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert or escheat to the people.

[Sec. 16 same effect as Sec. 12 of the Constitution of 1821, printed in its order, *ante.*]

2.—DOCUMENTS APPLYING IN PART TO THE ORIGINAL THIRTEEN STATES AND OTHER STATES THEIR GRANTEEES, AND IN PART TO THE REMAINING 20 STATES AND TERRITORIES OF THE AMERICAN UNION.

STATS. U. S., 1ST CONGRESS, SESS. 2, CAP. 33, (1790.)

An Act to regulate Trade and Intercourse with the Indian Tribes.‡

Section 1.—Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be permitted to carry on any trade or intercourse with the Indian tribes, without a license for that purpose under the hand and seal of the superintendent of the department, or of such other person as the President of the United States shall appoint for that purpose; which superintendent, or other person so appointed, shall, on application, issue such license to any proper person, who shall enter into bond with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, payable to the President of the United States for the time being, for the use of the United States, conditioned for the true and faithful observance of such rules, regulations and restrictions, as now are, or hereafter shall be made for the government of trade and intercourse with the Indian tribes. The said superintendents, and persons by them licensed as aforesaid, shall be governed in all things touching the said trade and intercourse, by such rules and regulations as the President shall prescribe. And no other person shall be permitted to carry on any trade or intercourse with the Indians without such license as aforesaid.

* U.S. Statutes at Large, vol. 7, p. 559.

† Poore's Constitutions, p. 1352.

‡ U.S. Statutes at Large, Vol. 1, p. 137.

No license shall be granted for a longer term than two years. Provided nevertheless, that the President may make such order respecting the tribes surrounded in their settlements by the citizens of the United States, as to secure an intercourse without license, if he may deem it proper.

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Section 2.—And be it further enacted, that the superintendent or person issuing such license, shall have full power and authority to recall all such licenses as he may have issued, if the person so licensed shall transgress any of the regulations or restrictions provided for the government of trade and intercourse with the Indian tribes, and shall put in suit such bonds as he may have taken, immediately on the breach of any condition in said bond: Provided always, that if it shall appear on trial, that the person from whom such license shall have been recalled, has not offended
10 against any of the provisions of this act, or the regulations prescribed for the trade and intercourse with the Indian tribes, he shall be entitled to receive a new license.

Section 3.—And be it further enacted, that every person who shall attempt to trade with the Indian tribes, or be found in the Indian country with such merchandise in his possession as are usually vended to the Indians, without a license first had and obtained, as in this act prescribed, and being thereof convicted in any court proper to try the same, shall forfeit all the merchandise so offered for sale to the Indian tribes, or so found in the Indian country, which forfeiture shall be one half to the benefit of the person prosecuting, and the other half to the benefit of the United States.

Section 4.—And be it enacted and declared, that no sale of lands made by any Indians, or any
20 nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States.

Section 5.—And be it further enacted, that if any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, shall go into any town, settlement or territory belonging to any nation or tribe of Indians, and shall there commit any crime upon, or trespass against, the person or property of any peaceable and friendly Indian or Indians, which, if committed within the jurisdiction of any state, or within the jurisdiction of either of the said districts, against a citizen or white inhabitant thereof, would be punishable by the laws of such state or district, such offender or offenders shall be subject to the same punishment, and shall be
30 proceeded against in the same manner as if the offence had been committed within the jurisdiction of the state or district to which he or they may belong, against a citizen or white inhabitant thereof.

Section 6.—And be it further enacted, that for any of the crimes or offences aforesaid, the like proceedings shall be had for apprehending, imprisoning or bailing the offender, as the case may be, and for recognizing the witnesses for their appearance to testify in the case, and where the offender shall be committed, or the witnesses shall be in a district other than that in which the offence is to be tried, for the removal of the offender and the witnesses or either of them, as the case may be, to the district in which the trial is to be had, as by the act to establish the judicial courts of the United States, are directed for any crimes or offences against the United States.

Section 7.—And be it further enacted, that this act shall be in force for the term of two years,
40 and from thence to the end of the next session of Congress, and no longer.

STATS. U. S., 2ND CONG. SESS. 2, CAP. 19, (1793.)*

An Act to regulate trade and intercourse with the Indian Tribes.

Sec. 8. And be it further enacted, That no purchase or grant of lands, or of any title or claim thereunto, from any Indians or nation or tribe of Indians, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by a treaty or convention entered into pursuant to the constitution; and it shall be a misdemeanor, in any person not employed under the authority of the United States, in negotiating such treaty or convention,

* U. S. Stats. at Large, Vol. 1, p. 330.

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punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months, directly or indirectly to treat with any such Indians, nation or tribe of Indians, for the title or purchase of any lands by them held, or claimed: Provided nevertheless, That it shall be lawful for the agent or agents of any State, who may be present at any treaty, held with Indians under the authority of the United States, in the presence, and with the approbation of the commissioner or commissioners of the United States, appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claims to lands within such State, which shall be extinguished by the treaty.

[The other sections of the last mentioned Act, and the following five Acts of the United States Congress, may also be referred to under this head:—

1796.	April 18,	4th Cong. Sess. 1,	Cap. 13,	Vol. 1,	p. 452.	10
"	May 19,	" " "	1, "	30,	Sec. 12, Vol. 1, p. 469.	
1799.	Mar. 3,	5th " " "	3, "	46,	Vol. 1, p. 743.	
1802.	Mar. 30,	7th " " "	1, "	13, "	2, p. 143.	
1834.	June 30,	23rd " " "	1, "	161, "	4, p. 730.]	

INDIAN RESERVES IN MASSACHUSETTS, NEW YORK AND OHIO, 1825.

*Statement shewing the names and numbers of the different tribes of Indians now remaining within the limits of the several States and Territories, and the quantity of land claimed by them respectively.**

[Extracts relating to the States of Massachusetts, New York and Ohio.]

NAMES OF THE TRIBES.	STATES OR TERRITORIES IN WHICH LOCATED.	NO. OF EACH TRIBE.	NO. IN EACH STATE OR TERRITORY.	NO. OF ACRES CLAIMED BY EACH TRIBE.	REMARKS.	
Marshpee	Massachusetts..	320	750		All the Indians in this State reside on their respective reservations at the places by which they are designated. The quantity of land occupied by them is not known, nor is there any information in this office by which it can be ascertained.	20
Herring Pond	" ..	40				
Martha's Vineyard ..	" ..	340				
Troy	" ..	50				
Senecas	New York	2,325	5,143	246,675	These Indians own and possess, together, sixteen reservations of land, containing, in whole, according to the report of the agent, on file in this office, about the number of acres stated.	30
Tuscaroras	"	253				
Oneidas	"	1,096				
Onondagas	"	446				
Cayugas	"	90				
Stockbridge	"	273				
Brotherton	"	360				
St. Regis Indians.....	"	300				
Wyandots	Ohio	542	2,350	163,840	The quantity of land claimed by these tribes is contained in several reservations, secured to them, respectively, by treaty; besides these, there are a number of other reservations secured separately to individual Indians, containing together 16,200 acres; making the whole quantity claimed in this State 409,501 acres, according to information obtained from the General Land Office.	40
Shawanees	"	800				
Senecas	"	551				
Delawares	"	80				
Ottawas	"	377				

THOMAS L. MCKENNEY.

DEPARTMENT OF WAR, OFFICE INDIAN AFFAIRS, January 10th, 1825.

* American State Papers—Indian Affairs, Vol. 2, pp. 545-7.

3.—DOCUMENTS RELATING TO STATES AND TERRITORIES NOT WITHIN THE LIMITS OF THE ORIGINAL THIRTEEN STATES, OR OF OTHER STATES, THEIR GRANTEES.

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Sec. VI.

Public Documents showing the mode of dealing in the United States, with Indians, in respect of Lands within the limits of the several States.

STATS. U. S., 23RD CONG. SESS. 1, CAP. 167, (1834.)

*An Act to relinquish the reversionary interest of the United States in a certain Indian reservation lying between the rivers Mississippi and Desmoins.**

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all the right, title, and interest which might accrue or revert to the United States to the reservation of land, lying between the rivers Desmoins and Mississippi, which
10 was reserved for the use of the half-breeds belonging to the Sacs and Fox nations, now used by them, or some of them, under a treaty made and concluded between the United States and the Sacs and Fox tribes or nations of Indians, at Washington, on the fourth day of August, in the year one thousand eight hundred and twenty-four, be, and the same are hereby, relinquished and vested in the said half-breeds of the Sacs and Fox tribes or nations of Indians, who, at the passage of this Act are, under the reservation in the said treaty, entitled, by the Indian title, to the same; with full power and authority to transfer their portions thereof, by sale, devise or descent, according to the laws of the State of Missouri.

STATS. U. S., 24TH CONG., SESS. 1, CAP. 267, (1836.)

An Act making further appropriations for carrying into effect certain Indian treaties.†

20 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated, to carry into effect certain Indian treaties, viz.:

For the amount stipulated to be paid for the lands ceded in the first article of the treaty with the Cherokees of the twenty-ninth of December, one thousand eight hundred and thirty-five, deducting the cost of the land to be provided for them west of the Mississippi, under the second article of said treaty, four million five hundred thousand dollars.

For extinguishing the title of certain half-breeds to reservations, granted them in the treaty with the Osages, in eighteen hundred and twenty-five, according to the fourth article of the aforesaid treaty with the Cheerokees, fifteen thousand dollars. . . .

30 STATS. U. S., 24TH CONG., SESS. 2, CAP. 41, SEC. 1, (1837.)

An Act to authorize and sanction the sales of reserves, provided for Creek Indians in the treaty of March twenty-four, eighteen hundred and thirty-two, in certain cases, and for other purposes.‡

40 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States may, and he is hereby authorized to, cause all the reserves belonging to the Creek Indians by virtue of the provisions of the treaty of March twenty-four, eighteen hundred and thirty-two, which shall remain unsold on the fourth day of April next, to be sold at public auction in the Creek country; after giving at least sixty days notice of the time, place and terms of sale in the public prints; and to cause patents to be issued to the purchasers of said reserves.

* U. S. Stats. at Large, Vol. 4, p. 740.

† U. S. Stats. at Large, Vol. 5, p. 73.

‡ *Ibid.*, p. 186.

Sec. VI.

*An Act to provide for the better Organization of Indian Affairs in California.**

Public Docu-
ments, shewing
the mode of
dealing in the
United States,
with Indians,
in respect of
Lands within
the limits of the
several States.

Be it enacted by the Senate and the House of Representatives of the United States of America, in Congress assembled, That, from and after the first day of April, anno Domini eighteen hundred and sixty-four, the state of California shall, for Indian purposes, constitute one superintendency, for which there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a superintendent of Indian affairs for said superintendency, at a salary of three thousand six hundred dollars per annum, who shall reside at a point within said state, to be selected by the Secretary of the Interior, and who, upon executing a bond, upon such terms and such sum as may be prescribed by the Secretary of the Interior, and taking the usual oath of office, shall have under his control and management, in like manner and subject to like rules and regulations as are prescribed for superintendents of other superintendencies, the Indians and Indian reservations that are or may hereafter be established in said state: Provided, That the superintendent shall be authorized to appoint a clerk, at a compensation not to exceed eighteen hundred dollars per annum. 10

Sec. 2. And be it further enacted, That there shall be set apart by the President, and at his discretion, not exceeding four tracts of land, within the limits of the said state, to be retained by the United States for the purposes of Indian reservations, which shall be of suitable extent for the accommodation of the Indians of said state, and shall be located as remote from white settlements as may be found practicable, having due regard to their adaptation to the purposes for which they are intended: Provided, That at least one of said tracts shall be located in what has heretofore been known as the northern district: And provided, further, That if it shall be found impracticable to establish the reservations herein contemplated without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purchase of such improvements, at a price not exceeding a fair valuation thereof, to be made under his direction. But no such contract shall be valid, nor any money paid thereon, until, upon a report of said contract and of said valuation to Congress, the same shall be approved and the money appropriated by law for that purpose: And provided, further, That said tracts to be set apart as aforesaid may, or may not, as in the discretion of the President may be deemed for the best interests of the Indians to be provided for, include any of the Indian reservations heretofore set apart in said state, and that in case any such reservation is so included, the same may be enlarged to such an extent as in the opinion of the President may be necessary, in order to its complete adaptation to the purposes for which it is intended. 20 30

[The following may also be referred to under this head :

Treaty with the Kickapoos, 28th June, 1862. U.S. Stats., vol. 13, p. 623.

Treaty with the Shoshonee-Gossip Bands, 12th October, 1863. U.S. Stats., vol. 13, p. 681.

Treaty with the Chippewas, 7th May, 1864. U.S. Stats., vol. 13, p. 693.

Stats. U.S., 38th Cong. Session 1, Cap. 77, (5th May, 1864), Vol. 13, p. 63.

“ “ “ 2, Cap. 45, sec. 1, (23rd Feb., 1865), Vol. 13, p. 432.

“ “ “ 2, Cap. 46, (23rd Feb., 1865), Vol. 13, p. 432. 40

“ “ “ 2, Cap. 122, (3rd May, 1865), Vol. 13, p. 538.]

* Stats. at Large, Vol. 13, pp. 39, 40.

VII.

Indian Affairs in the several Provinces now composing the Dominion.

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Sec. VII
*Indian Affairs
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Dominion.*

1. Province of Ontario.
2. Province of Quebec.
3. Ontario and Quebec.
4. Indian Policy of Ontario and Quebec as compared with that of the Maritime Provinces.
5. Province of Nova Scotia.
6. Province of New Brunswick.
7. Province of Prince Edward Island. 10
8. Province of British Columbia.
9. Manitoba and the North-West Territories.
10. Indian Reserves of the Dominion.

I.—PROVINCE OF ONTARIO.

(1) Ontario.

CONDITIONS OF CROWN GRANT OF LANDS ON THE GRAND RIVER—LIEUTENANT-GOVERNOR SIMCOE OF UPPER CANADA TO THE SIX NATIONS, 14TH JANUARY, 1793.*

Provided always, and be it understood, to be the true intent and meaning of these presents, that for the purpose of assuring the said lands as aforesaid, to the said Chiefs, Warriors, Women and People of the Six Nations, and their heirs, and of securing to them the free and undisturbed possession and enjoyment of the same, it is our Royal will and pleasure, that no transfer, alienation, conveyance, sale, gift, exchange, lease, property, or possession, shall at any time be had, made or given, of the said district or territory or any part or parcel thereof, by any of the said Chiefs, Warriors, Women or People, to any other nation or body of people, person or persons whatsoever, other than among themselves, the said Chiefs, Warriors, Women and People, but that any such transfer, alienation, sale, gift, exchange, lease, or possession, shall be null and void and of no effect whatever, and that no person or persons shall possess or occupy the said district or territory or any part or parcel thereof, by or under pretence of any such alienation, title or conveyance, or by or under any pretence whatever, under pain of our severe displeasure; and that in case any person or persons other than the said Chiefs, Warriors, Women and People, of the said Six Nations, shall, under pretence of any such title as aforesaid, presume to possess or occupy the said district or territory, or any part or parcel thereof, that it shall and may be lawful for us, our heirs and successors, at any time thereafter, to enter upon the lands so occupied and possessed by any person or persons other than the people of the said Six Nations, and them the said intruders thereof and therefrom wholly to dispossess and eject, and to resume the part or parcel so occupied to ourselves, our heirs and successors. Provided always, that if at any time the said Chiefs, Warriors, Women and People of the said Six Nations, should be inclined to dispose of and surrender their use and interest in the said district or territory, or any part thereof, the same shall be purchased for us, our heirs and successors, at some public meeting or assembly of the Chiefs, Warriors and People of the said Six Nations, to be holden for that purpose by the Governor, Lieutenant-Governor or person administering our Government in our Province of Upper Canada.

* App. (E E E) to Journals, Ho. Ass., Can., 1844-5, page 24.

EXTRACT FROM THE PROCEEDINGS OF THE EXECUTIVE COUNCIL FOR THE PROVINCE OF UPPER
CANADA, 1ST APRIL, 1793.

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Read a report on lands reserved for the Mohawk Indians at the Bay of Quinté (signed D. W. Smith, Acting Surveyor-General, and dated Surveyor-General's Office, Upper Canada, March 29th, 1792), submitting the following tract relative to the reserves in question :

(1) Ontario.

"The tract will then be bounded in front by the Bay of Quinté, between the mouths of the river Shannon and Bowen's Creek, about twelve miles westerly by a line running north sixteen degrees west, from the west side of the mouth of the river Shannon, and easterly by a line running north sixteen degrees west, from the mouth of Bowen's Creek ; and northerly by a line running east sixteen degrees north, and west sixteen degrees south, at the distance of about thirteen miles back, from the Bay of Quinté, measured on the western boundary aforesaid to the north-east angle of the township of Thurlow." 10

Resolved,—That the above description of the reserves for the Mohawk Indians settled on the Bay of Quinté be adopted and carried into execution, and for that purpose that a grant be directed to be made under the Great Seal of the Province in favour of the principal Chiefs, on behalf of their Nation (or tribe as above named) or persons in trust for them forever.

Truly extracted.

OTTAWA, 12th July, 1870.

WM. H. LEE,

Clerk Privy Council, Canada.

20

REPORT ON THE INDIAN DEPARTMENT OF UPPER CANADA, 1840.*

Unto the Right Honourable CHARLES POULETT THOMSON, Governor-General and Captain-General of British North America, etc., etc., etc.

MAY IT PLEASE YOUR EXCELLENCY :

The Commissioners appointed to investigate into the business, conduct and organization, of the various Public Departments of the Province of Upper Canada, beg leave respectfully to report that the Committee of their number, to whom was entrusted the investigation of "Indian Affairs," having inquired into that subject, have made the Report hereunto appended—which, having been 30 submitted to the General Board of Commissioners, has been considered, approved of, and adopted by them ; and is now respectfully submitted to your Excellency, as their Sixth Report.

Signed in name and by the authority of the Board,

W. ALLAN, *President.*

Investigation Commission,
Toronto, 1st February, 1840.

Report of Committee No. 4, on Indian Department.

The Committee to whom was referred the investigation of the affairs of the Indians—First, with a view to ascertain the present condition, morally and politically, of the different tribes forming the Indian population, and what lands or annuities, of any kind, they possess.—Secondly, 40 to consider what alteration and amendment may be beneficially introduced in the mode of conducting the Indian Department—respectfully report as follows:— * * *

*Toronto, W. J. Coates ; App. (T.) Journals Ass., Can., 1847.

In pursuing their inquiries your Committee have, as strictly as possible, followed the course pointed out by His Excellency's instructions, directing their attention to—

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First.—The system adopted in paying the annuities to the several Indian Tribes, and whether it be not susceptible of improvement.

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Second.—The mode of taking care of the Indian Reserve Lands at present adopted ; and whether great alterations and improvements might not be effected, much to the advantage of the Indians. (1) Ontario.

Third.—The course to be adopted with respect to squatters upon Indian lands, whether altogether without authority, or under colour of recognized titles, obtained from individuals amongst the Indians ; and how far the Act recently passed will be likely to afford efficient protection to the rights of the Indians. * * *

Second.—Upon the second sub-division of your Committee's inquiry, as to "the mode of taking care of the Indians' reserved lands, and whether great alterations and improvements might not be effected, much to the advantage of the Indians ;" and the third, nearly allied to it, as to "the course to be adopted with respect to the squatters upon Indians' lands—whether altogether without authority, or under colour of recognized titles obtained from individuals amongst the Indians, and how far the Act of 2nd Victoria, recently passed, will be likely to afford efficient protection to the rights of the Indians ;" your Committee have carefully examined the opinions of men most practically acquainted with the evils predicated in the questions, and the difficulties which stand in the way of their removal, in the present wild state of the possessions themselves, and the, at best, partially civilized condition of the owners. While your Committee are impressed with the belief, that complete protection of such property can only be looked for, as the result of that change which shall assimilate the Indians with people accustomed from infancy to the idea of separate and individually appropriated property, where each is, under the law, the protector of his own possessions, yet they are under the conviction that much may even now be done, by a firm and prompt administration of the law, as it stands, to remove many of those causes of waste and depreciation, which have, for a long series of years, and do still affect the possessions of this race, within the organized limits of the Province.

The evils chiefly complained of are, first, the unauthorized destruction of game within the Indian Reserves, by the surrounding inhabitants ; secondly, the cutting and lawless removal of timber ; and, thirdly, the illegal occupation of lands by trespassers, under pretended sales or licenses from some individual Indians, or under no title whatever.

As to the destruction of game within their hunting grounds, encircled as they are by agricultural settlements of the European race, it is hardly worth the enquiry ; for if the whole people within the several reservations had to depend upon this source of subsistence, they would speedily become extinct. It continues just plentiful enough to keep alive their ancient propensities, and furnish a pretext for continuing the habits of savage life—but certainly nothing commensurate with the requisite subsistence of the tribes. As regards the game, therefore, perhaps its entire extinction or disappearance might be ultimately more beneficial to the Indians, than its more rigid preservation for their use.

Upon this subject Mr. Jarvis [Superintendent of Indian Affairs] says:—"There are no tracts of land belonging to Indians within the settled or surveyed portions of the Province, which produce game sufficient for the maintenance and support of the tribes to which they belong ; and if they abounded in game, the severest penal Statutes would scarcely prevent the white inhabitants from killing it. And it would be unfair to make the killing of game by white people on Indian reservations penal, when the Indians themselves are permitted to hunt over the estate of every white man in the country, without meeting with interruption ; the game to be found on the Indian reservations is, at the present day, quite a secondary consideration. The protection of their fisheries, the preservation of the timber growing on their lands, and the removal of squatters, are of far more importance to them."

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Mr. Jarvis further says:—"The reservations being now completely surrounded by white settlements, it follows, as a consequence, that the game with which they at one period abounded, and which it was contemplated would suffice for food, has either been destroyed, or it has fled to places more remote from the habitation of man. The abstraction of timber is a much more serious grievance: this, of course, is always the most valuable, both in itself and from the situation of its growth upon navigable waters, as the banks of the Grand River, and the shores of the Bay of Quinté, etc., etc."

The Commissioner of Crown Lands has stated to the Committee, that this evil is carried to a great extent, and is now in full operation on the Indian, in common with most unoccupied lands in the vicinity of navigable waters, the oak timber being cut for the manufacture of staves; 10 and that in more than one instance he has been applied to for licenses by persons desirous to carry on such traffic on the Indian Reserves, under legal authority.

Third.—The third head, the dealing with intruders upon Indian lands, is a subject that has, for many years, occupied the attention of the Government. On all the Indians' reservations, these have caused considerable perplexity, chiefly from the fact of ignorant settlers purchasing supposed rights from the Indians themselves, and, after many years' occupation, leaving it exceedingly difficult to determine, whether an unqualified dispossession of them might not be a very questionable act of justice.

With such of these as were settled upon lands surrendered to the Crown, under the administration of Sir John Colborne, and laid out in townships, and sold for the benefit of the Indians, the Government has made equitable and final arrangements; but there are still great numbers of others, 20 scattered over the Indian reservations, with whom the Executive will now have to take prompt and effective measures. Some, from original mistake and long possession, may possess a sort of quasi equitable claim to their possessions, but by far the greater number, it is apprehended, ought to be summarily dealt with—the smallest objection to their continuance among the Indians, being their defective title to the lands of which they have taken possession. It has not been possible for your Committee to obtain an exact return of the number of these trespassers. They are estimated by Colonel Kerr, who has had opportunity of knowing the statistics of the Six Nations Indians, "to be from two to four hundred, and who considers their residence on the reserves as very injurious to the Indian character generally, from the immoral and abandoned character of the squatters." 30

In reference to this subject, Mr. Jarvis says:—"The intruders on Indian lands are very numerous, and are said to be increasing. The exact number I am unable to state; but on the Grand River reservation alone, I should think there were at least four hundred people, unlawfully occupying lands. Many of them are said to be respectable, but by far the greater number are mere adventurers from the United States, against whom the Indians have repeatedly made complaints, and have petitioned Government for their removal. A number of this last description of persons, keep in their houses various kinds of liquor, and deal them out to the Indians without license, in exchange for anything they may have to dispose of, thus occasioning among them much dissipation, drunkenness and debauchery."

From the several gentlemen best acquainted with the subject, as to the chief difficulties in preserving the landed possessions of the Indians for their exclusive enjoyment, and the means used to prevent any interruption of that enjoyment, your Committee have received but one concurrent opinion as to the magnitude of these difficulties, and at the same time of the paramount necessity for their prompt removal. Mr. Jarvis answers as follows:—"If the Indians could be persuaded to reside together, on some defined parts of their respective reserves, instead of being scattered as they are at present, I think they would be more happy, contented and prosperous, and be better able to defend themselves against the intrusions and innovations of the white people." 40

Colonel Kerr says:—"The chief difficulty at present existing in preserving the Indians' lands, is the intrusion of squatters upon them, who are generally of the worst description of white

settlers. They do great damage to the Indian reservation, by cutting and destroying the best timber, and corrupting the morals of the Indians. Hitherto no legal measures have been adopted to prevent so pernicious a system." . . .

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Mr. Blair, on being asked if he considered the intruders on the Grand River Reserve numerous, says:—"Yes; in the Indian Reserve of the Six Nations not less than one hundred and fifty families; their residence within the reserve affects the Indians in the same manner as all unrestrained admixture with a white population affects them, that is to say: the effects on their moral and social condition are bad; as respects the Indians' interests as mere landholders possessed of convertible property the effects are advantageous, as settlements, of course, raise the value of the contiguous lots or parcels of land." . . .

All which is respectfully submitted.

ROBERT S. JAMESON.

J. B. MACAULAY.

WILLIAM HEPBURN.

No. 4 Committee Room,
January, 1840.

DEALINGS OF THE GOVERNMENT OF THE PROVINCE OF CANADA WITH THE TERRITORY ON LAKES
HURON AND SUPERIOR, PRIOR TO 1850.

*Report of Committee of Council, 18th November, approved by the Governor-General, 19th
20 November, 1845.*

On the respective petitions of William H. Merritt, of St. Catharines, in district of Niagara, James Hamilton, of town of London, James Douglas, of Fort Erie, township of Bertie, Angus D. McDonell, Toronto, Thomas Ryan, of Montreal, and Edward Ryan, city of Quebec, Esquires, for licenses to explore for copper ore and other minerals on the shores of Lake Superior,

The Committee recommend the prayer of the respective petitioners on the usual terms.

Certified, E. PARENT.

Report of Committee of Council, 13th August, approved by the Governor-General, 14th August, 1846.

On the respective letters of the Hon. George Moffatt, for self and others, and of John Ewart, S. B. Harrison and A. and S. Bagg, all dated 28th of July, 1846, containing a selection of locations for mining purposes on the shores of Lake Superior, and asking if there will be, on the part of the Government, any objection to the formation of a company, composed of holders of licenses, for the better attainment, by the union of capital, skill and labor, of the common object for which those licenses are held and were granted,

The Committee see no objection to the association of the several license-holders as prayed for.

Certified, E. PARENT.

Report of Committee of Council, 15th August, approved by the Governor-General, 17th August, 1846

On a letter from Thomas Ryan, enclosing a report of mining exploration on Lake Superior, by E. H. Thompson, Attorney for James B. Forsyth, to whom a license has issued,

The Committee are of opinion that this application should have been furnished to the Provincial Geologist, who is now on Lake Superior for the express purpose of learning the claims of

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license-holders and of settling their locations. The Committee deem it proper to draw Your Excellency's attention to the following circumstance:—Several reports of persons who have explored the north-east of that lake, under the authority of individuals holding licenses for that purpose, have been accompanied by maps and sketches of certain points, head-lands and islands, as laid down by Captain Bayfield, and to which they have given names according to their own fancy. This, if recognized, may lead to great confusion, and therefore it is suggested that Mr. Logan be instructed to pay no attention to such names, but to suggest others for the approval of Your Excellency in Council.

Certified, E. PARENT.

*The Assistant Provincial Secretary to the Commissioner of Crown Lands.**

10

SECRETARY'S OFFICE, 10th Oct., 1846.

SIR,—I have the honour, by command of the Governor-General, to transmit for your information, a list of the names of parties to whom licenses to explore the banks of Lake Superior for mines and minerals have been granted up to this date.

I have, &c.,

JAMES HOPKIRK.

The Hon. D. B. Papineau, Commissioner of Crown Lands.

*List of Persons to whom Licenses have been Granted to Explore for Mines, &c. on the Shores of Lake Superior, referred to in the foregoing.**

- | | | |
|--|---|----|
| 1. John Prince, Sandwich..... | British North American Mining Company, Lake Superior. John Prince. | 20 |
| 2. Chas. Bockus & Donald Ross, Montreal..... | | |
| 3. Hon. P. McGill, and others, Montreal..... | Montreal Mining Company. Stewart Derbishire, Secretary. | |
| 4. George Desbarats, Montreal..... | British and Canadian Mining Company, Montreal. Geo. Desbarats, Esq. | |
| 5. Samuel B. Harrison, Toronto..... | Montreal Mining Company. | |
| 6. John Stuart, London..... | " " " | |
| 7. Arthur Rankin, Chatham..... | Quebec Mining Company. John Bonner, Secretary. | |
| 8. Joseph Woods, "..... | Montreal Mining Company. | 30 |
| 9. Stewart Derbishire, Montreal..... | " " " | |
| 10. John Ewart, Toronto..... | " " " | |
| 11. Allan McDonell, Toronto..... | Quebec Mining Company. | |
| 12. Wm. H. Merritt, St. Catharines..... | Montreal Mining Company. | |
| 13. James Hamilton, London..... | Quebec Mining Company. | |
| 14. James Ferrier, Montreal..... | Montreal Mining Company. | |
| 15. W. C. Meredith, "..... | " " " | |
| 16. John Douglas..... | Quebec Mining Company. | |
| 17. A. D. McDonell..... | " " " | |
| 18. Edward Ryan, Montreal..... | St. Lawrence Mining Company. Thos. Ryan, Secretary, Montreal. | 40 |
| 19. Thomas Ryan, "..... | Montreal Mining Company. | |
| 20. James B. Forsyth, Quebec..... | Victoria Mining Company. Jas. B. Forsyth, Secretary. | |
| 21. S. J. Lyman, Montreal..... | Montreal Mining Company. | |
| 22. A. D. McLean..... | Quebec Mining Company. | |

* Book—"Mining Patents Issued," Vol. I., pp. 1, 2 (Crown Lands Department, Ontario).

23.	W. B. Jarvis, and others	Montreal Mining Company.
24.	R. J. Turner.....	“ “ “
25.	James Wilson	“ “ “
26.	Charles Jones	Quebec Mining Company.
27.	A. & S. Bagg.....	Montreal Mining Company.
28.	R. S. Woods	“ “ “
29.	James Hopkirk.....	“ “ “
30.	Hy. Jones	
31.	P. H. Morrin	Canada Mining Company. Jno. E. Mills, Montreal.
10 32.	J. E. Rankin	George Desbarats, Montreal.
33.	Wm. Elliott	Montreal Mining Company.
34.	Thos. L. Ritter	Canada Mining Company.

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*Official Notice in Canada Gazette.**

CROWN LANDS DEPARTMENT,

Montreal, 7th November, 1846.

PUBLIC NOTICE.—For the information of parties who have applied for Mining Licenses on Lakes Superior and Huron, the following extracts are published of a Minute of Council of the 2nd instant :

1st. That each License holder, whose location shall be designated by the Provincial Geologist,
20 shall be entitled to a certificate of location from the Commissioner of Crown Lands, upon the payment to that officer of the sum of £150, to cover the cost of survey and other contingent expenses, this sum to be placed at the credit of the locatee as a part of the first instalment, when the sale shall be confirmed ; and in the event of his declining to make a purchase of the location on the terms of the said Minute, or of his failing to make good the payment of the first instalment, within the period of two years, the above sum of £150 to be forfeited to the Government, and the land to be again offered for sale to any other applicant.

2nd. All future applicants for locations to be also entitled to purchase under the authority, and upon the conditions of the Minute of the 7th October, and they shall in like manner be entitled to a certificate of location so soon as the Deputy Provincial Surveyor, employed by the Govern-
30 ment for that purpose, shall have reported to the Commissioner of Crown Lands, the boundaries of such locations respectively, and upon the applicant having paid to that officer the sum of £150, to be applied, accounted for, or forfeited, according to the provisions of the foregoing regulations.

The conditions of the Minute of the 7th October last, above alluded to, are, that the then several license holders “ be permitted to work the mines under the authority of the license which they now hold, with the option, either now or at any time within the period of two years, to purchase the location of ten square miles at the rate of 4s. per acre, payable one-fifth part in hand, and the remainder in five yearly payments, with interest.

“That where the licenses which have been issued are all located the lands on Lakes Huron and Superior be forthwith open for sale at the minimum price of 4s. per acre in blocks of ten miles
40 square, designated by a Provincial Surveyor on the foregoing terms.”

3rd. That before any further locations are surveyed, the Commissioner of Crown Lands shall require of each applicant to point out on Bayfield's map, the situation of the land which he may desire to obtain ; and also to receive from him the sum of £150 above mentioned, when that officer shall direct the surveyor to proceed with the survey of the location so applied for and pointed out.

* Canada Gazette, Vol. 5, Jan.-Dec. 1846, p. 3405.

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4th. That the Commissioner of Crown Lands shall make report and plan of the best method of laying out the mineral locations in the tract of country under consideration, having due regard to the manner in which the locations of the present season have been described, and the future uniformity of its geographical sub-division.

That all grants shall be subject to such regulations to ensure the working of the mines as may be hereafter enacted by Parliament.

No further reply therefore can be given to applicants on Lake Superior until the receipt of Mr. Logan's report and Mr. McNaughton's return of survey.

A surveyor will be appointed to lay out the mining limits applied for on Lake Huron, whenever the applicants will have complied with the foregoing requirements. 10

D. B. PAPINEAU,
Commissioner of Crown Lands.

*Extract from Report of Committee of Council, 14th June, approved by His Excellency,
17th June, 1848.*

On application of the Secretary of the Montreal Mining Company praying that a Patent may issue in the name of the Company for a certain mining location on Lake Huron set apart in the name of James Cuthbertson, Esq., who has transferred his right and title thereto to the applicants in virtue of a deed of sale bearing date the 15th November, 1847, copy of which is annexed to said application :

Mr. Cuthbertson has by letter, dated 28th April last, begged permission to withdraw his name 20 as an applicant for the tract in question, on condition of that of the Montreal Mining Company being substituted lieu in thereof. The Committee see no objection to the course proposed, and accordingly recommend that the name of the Montreal Mining Company be inserted in lieu of that of Mr. Cuthbertson, and that a Patent issue in favor of the former for the tract in question, together with the islands prayed for in front of the same, on the usual terms and conditions—the islands to be paid for according to their extent.

Certified, P. JOSEPH.

THE LAKE SUPERIOR TREATY, 1850.

THIS AGREEMENT, made and entered into on the seventh day of September, in the year of our Lord one thousand eight hundred and fifty, at Sault Ste. Marie, in the Province of 30 Canada, between the Honourable William Benjamin Robinson, of the one part, on behalf of Her Majesty the Queen, and Joseph Peaudechat, John Ininway, Mishi-Muckqua, Totomenai, Chiefs, and Jacob Wasseba, Ahmutchwagabon, Michel Shebageshick, Manitoshainse, and Chigenaus, principal men of the Ojibeway Indians inhabiting the Northern Shore of Lake Superior, in the said Province of Canada, from Batchewanaung Bay to Pigeon River, at the western extremity of said lake, and inland throughout that extent to the height of land which separates the territory covered by the charter of the Honourable the Hudson's Bay Company from the said tract, and also the islands in the said lake within the boundaries of the British possessions therein, of the other part, witnesseth :

That for and in consideration of the sum of two thousand pounds of good and lawful money 40 of Upper Canada, to them in hand paid, and for the further perpetual annuity of five hundred pounds, the same to be paid and delivered to the said Chiefs and their tribes at a convenient season of each summer, not later than the first day of August, at the Honourable the Hudson's

Bay Company's Posts of Michipocoton and Fort William, they the said Chiefs and principal men do freely, fully and voluntarily surrender, cede, grant and convey unto Her Majesty, Her heirs and successors forever, all their right, title and interest in the whole of the territory above described, save and except the reservations set forth in the schedule hereunto annexed, which reservations shall be held and occupied by the said Chiefs and their tribes in common, for the purposes of residence and cultivation,—and should the said Chiefs and their respective tribes at any time desire to dispose of any mineral or other valuable productions upon the said reservations, the same will be at their request sold by order of the Superintendent-General of the Indian Department for the time being, for their sole use and benefit, and to the best advantage.

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- 10 And the said William Benjamin Robinson, of the first part, on behalf of Her Majesty and the Government of this Province, hereby promises and agrees to make the payments as before mentioned ; and further to allow the said Chief and their tribes 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, saving and excepting only such portions of the said territory as may from time to time be sold or leased to individuals, or companies of individuals, and occupied by them with the consent of the Provincial Government. The parties of the second part further promise and agree that they will not sell, lease, or otherwise dispose of any portion of their reservations without the consent of the Superintendent-General of Indian Affairs being first had and obtained ; nor will they at any time hinder or prevent persons exploring or searching for minerals
- 20 or other valuable productions in any part of the territory hereby ceded to Her Majesty as before mentioned. The parties of the second part also agree that in case the Government of this Province should before the date of this agreement have sold, or bargained to sell, any mining locations or other property on the portions of the territory hereby reserved for their use and benefit, then and in that case such sale, or promise of sale, shall be perfected, if the parties interested desire it, by the Government, and the amount accruing therefrom shall be paid to the tribe to whom the reservation belongs. The said William Benjamin Robinson on behalf of Her Majesty, who desires to deal liberally and justly with all her subjects, further promises and agrees that in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province without incurring loss to increase the annuity hereby
- 30 secured to them, then, and in that case, the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound provincial currency in any one year, or such further sum as Her Majesty may be graciously pleased to order ; and provided further that the number of Indians entitled to the benefit of this treaty shall amount to two-thirds of their present numbers (which is twelve hundred and forty) to entitle them to claim the full benefit thereof, and should their numbers at any future period not amount to two-thirds of twelve hundred and forty, the annuity shall be diminished in proportion to their actual numbers.

—

Schedule of Reservations made by the above-named and subscribing Chiefs and principal men.

- 40 *First*—Joseph Peau-de-chat and his tribe, the reserve to commence about two miles from Fort William (inland), on the right bank of the River Kiministiquia, thence westerly six miles, parallel to the shores of the lake, thence northerly five miles, thence easterly to the right bank of the said river, so as not to interfere with any acquired rights of the Honourable Hudson's Bay Company.

Second—Four miles square at Gros Cap, being a valley near the Honourable Hudson's Bay Company's post of Michipocoton, for Totomenai and tribe.

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Third—Four miles square on Gull River, near Lake Nipigon, on both sides of said river, for the Chief Mishimuckqua and tribe.

W. B. ROBINSON.		JACOB WASSEBA.	His x mark. [L.S.]
JOSEPH PEAU-DE-CHAT.	His x mark. [L.S.]	AH-MUTCHWAGABON.	“ x “ [L.S.]
JOHN ININWAY.	“ x “ [L.S.]	MICHEL SHEBAGESHICK.	“ x “ [L.S.]
MISHE-MUCQUA.	“ x “ [L.S.]	MANITOU SHAINSE.	“ x “ [L.S.]
TOTOMENAI.	“ x “ [L.S.]	CHIGENAU.	“ x “ [L.S.]

Signed, sealed and delivered at Sault Ste. Marie, the day and year first above written, in presence of—

GEORGE IRONSIDE, <i>S. J. Affairs.</i>	JOHN SWANSTON, <i>C. F. Hon. Hud. Bay Co.</i>	10
ASTLEY P. COOPER, <i>Capt. Com. R. B.</i>	GEORGE JOHNSTON, <i>Interpreter.</i>	
A. N. BALFOUR, <i>2nd Lieut. R. Batt.</i>	J. W. KEATING.	

THE LAKE HURON TREATY, 1850.

THIS AGREEMENT, made and entered into this ninth day of September, in the year of our Lord one thousand eight hundred and fifty, at Sault Ste. Marie, in the Province of Canada, between the Honourable William Benjamin Robinson, of the one part, on behalf of Her Majesty the Queen, and Shinguacouse, Nebenaigoching, Keokouse, Mishequonga, Tagawinini, Shabokeshick, Dokis, Ponekeosh, Windawtegowinini, Shawenakeshick, Namassin, Naoquagabo, Wabakekick, Kitchipossigun, by Papasainse, Wagemaki, Pamequonaishcung, Chiefs; and John Bell, Paqwatchinini, Mashekyash, Idowekesis, Waquacomick, Ocheek, Metigomin, Watachewana, Minwawapenasse, Shenoquom, Oningegun, Panaissy, Papasainse, Ashewasega, Kageshewawetung, Shawonebin; and also Chief Maisquaso (also Chiefs Muckata, Mishoquet, and Mekis), and Mishoquetto and Asa Waswanay and Pawiss, principal men of the Ojibeway Indians, inhabiting and claiming the eastern and northern shores of Lake Huron, from Penetanguishene to Sault Ste. Marie, and thence to Batchewanaung Bay, on the northern shore of Lake Superior, together with the Islands in the said Lakes, opposite to the shores thereof, and inland to the height of land which separates the territory covered by the charter of the Honourable Hudson's Bay Company from Canada; as well as all unconceded lands within the limits of Canada West to which they have any just claim, of the other part, witnesseth:

That for and in consideration of the sum of two thousand pounds of good and lawful money of Upper Canada, to them in hand paid, and for the further perpetual annuity of six hundred pounds of like money, the same to be paid and delivered to the said Chiefs and their tribes at a convenient season of each year, of which due notice will be given, at such places as may be appointed for that purpose, they the said Chiefs and principal men, on behalf of their respective tribes or bands, do hereby fully, freely and voluntarily surrender, cede, grant, and convey unto Her Majesty, her heirs and successors forever, all their right, title, and interest to, and in the whole of the territory above described, save and except the reservations set forth in the schedule hereunto annexed; which reservations shall be held and occupied by the said Chiefs and their tribes in common, for their own use and benefit.

And should the said Chiefs and their respective tribes at any time desire to dispose of any such reservations, or of any mineral or other valuable productions thereon, the same will be sold or leased at their request by the Superintendent-General of Indian Affairs for the time being, or other officer having authority so to do, for their sole benefit, and to the best advantage.

And the said William Benjamin Robinson of the first part, on behalf of her Majesty and the Government of this Province, hereby promises and agrees to make, or cause to be made, the payments as before mentioned; and further to allow the said Chiefs and their tribes 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; saving and excepting such portions of the said territory as may from time to time be sold or leased to individuals or companies of individuals, and occupied by them with the consent of the Provincial Government.

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The parties of the second part further promise and agree that they will not sell, lease, or otherwise dispose of any portion of their Reservations without the consent of the Superintendent-
10 General of Indian Affairs, or other officer of like authority, being first had and obtained. Nor will they at any time hinder or prevent persons from exploring or searching for minerals, or other valuable productions, in any part of the territory hereby ceded to Her Majesty, as before mentioned. The parties of the second part also agree, that in case the Government of this Province should before the date of this agreement have sold, or bargained to sell, any mining locations, or other property, on the portions of the territory hereby reserved for their use, then and in that case such sale, or promise of sale, shall be perfected by the Government, if the parties claiming it shall have fulfilled all the conditions upon which such locations were made; and the amount accruing therefrom shall be paid to the tribe to whom the Reservation belongs.

The said William Benjamin Robinson, on behalf of Her Majesty, who desires to deal liberally
20 and justly with all her subjects, further promises and agrees, that should the territory hereby ceded by the parties of the second part at any future period produce such an amount as will enable the Government of this Province, without incurring loss, to increase the annuity hereby secured to them, then and in that case the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound Provincial currency in any one year, or such further sum as Her Majesty may be graciously pleased to order; and provided further that the number of Indians entitled to the benefit of this treaty shall amount to two-thirds of their present number, which is fourteen hundred and twenty-two, to entitle them to claim the full benefit thereof. And should they not at any future period amount to two-thirds of
30 fourteen hundred and twenty-two, then the said annuity shall be diminished in proportion to their actual numbers.

The said William Benjamin Robinson, of the first part, further agrees, on the part of Her Majesty and the Government of this Province, that in consequence of the Indians inhabiting French River and Lake Nipissing having become parties to this treaty, the further sum of one hundred and sixty pounds Provincial currency shall be paid in addition to the two thousand pounds above mentioned.

Schedule of Reservations made by the above-named subscribing Chiefs and Principal Men.

First. Pamequonaishcung and his band, a tract of land to commence seven miles from the mouth of the River Maganetawang, and extending six miles east and west by three miles north.

Second. Wagemake and his band, a tract of land to commence at a place called Nekickshegesh-
40 ing, six miles from east to west, by three miles in depth.

Third. Kitcheposkissegan (by Papasaisne), from point Grondine westward, six miles inland, by two miles in front, so as to include the small Lake Nessinassung—a tract for themselves and their bands.

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Fourth. Wabakekik, three miles front, near Shebawenaning, by five miles inland, for himself and band.

Fifth. Namassin and Naoquagabo and their bands, a tract of land commencing near Lacloche, at the Hudson Bay Company's boundary; thence westerly to the mouth of the Spanish River; then four miles up the south bank of said river, and across to the place of beginning.

Sixth. Shawenakishick and his band, a tract of land now occupied by them, and contained between two rivers, called Whitefish River, and Wanabitaseke, seven miles inland.

Seventh. Windawtegawinini and his band, the Peninsula east of Serpent River, and formed by it, now occupied by them.

Eighth. Ponekeosh and his band, the land contained between the River Mississaga and the 10 River Penebewabecong, up to the first rapids.

Ninth. Dokis and his band, three miles square at Wanabeyakokaun, near Lake Nipissing and the Island near the Fall of Okickandawt.

Tenth. Shabokishick and his band, from their present planting grounds on Lake Nipissing to the Hudson Bay Company's post, six miles in depth.

Eleventh. Tagawinini and his band, two miles square at Wanabitibing, a place about forty miles inland, near Lake Nipissing.

Twelfth. Keokouse and his band, four miles front from Thessalon River eastward, by four miles inland.

Thirteenth. Mishequanga and his band, two miles on the lake shore east and west of Ogawa- 20 minang, by one mile inland.

Fourteenth. For Shinguacouse and his band, a tract of land extending from Maskinonge Bay, inclusive, to Partridge Point, above Garden River on the front, and inland ten miles, throughout the whole distance; and also Squirrel Island.

Fifteenth. For Nebenaigoching and his band, a tract of land extending from Wanabekineyunung west of Gros Cap to the boundary of the lands ceded by the Chiefs of Lake Superior, and inland ten miles throughout the whole distance, including Batchewanaung Bay; and also the small island at Sault Ste. Marie used by them as a fishing station.

Sixteenth. For Chief Mekis and his band, residing at Wasaquesing (Sandy Island), a tract of land at a place on the main shore opposite the Island; being the place now occupied by them for 30 residence and cultivation, four miles square.

Seventeenth. For Chief Muckatamishaquet and his band, a tract of land on the east side of

the River Naishconteong, near Pointe aux Barils, three miles square; and also a small tract in Washauwenega Bay—now occupied by a part of the band—three miles square.

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	W. B. ROBINSON.		JOHN BELL.	His x mark.	[L.S.]
	SHINGUACOUSE.	His x mark.	PAQWATCHININI.	" x "	[L.S.]
	NEBENAIGOCHING.	" x "	MASHEKYASH.	" x "	[L.S.]
	KEOKOUSE.	" x "	IDOWEKESIS.	" x "	[L.S.]
	MISHEQUONGA.	" x "	WAQUACOMICK.	" x "	[L.S.]
	TAGAWININI.	" x "	MISHOQUETTO.	" x "	[L.S.]
	SABOKESHICK.	" x "	ASA WASWANAY.	" x "	[L.S.]
10	DOKIS.	" x "	PAWISS.	" x "	[L.S.]
	PONEKEOSH.	" x "	OCHEEK.	" x "	[L.S.]
	WINDAWTEGOWININI.	" x "	METIGOMIN.	" x "	[L.S.]
	SHAWENAKESHICK.	" x "	WATACHEWANA.	" x "	[L.S.]
	NAMASSIN.	" x "	MIMEWAWAPENASSE.	" x "	[L.S.]
	MUCKATA MISHAQUET.	" x "	SHENAOQUM.	" x "	[L.S.]
	MEKIS.	" x "	ONINGEGUN.	" x "	[L.S.]
	MAISQUASO.	" x "	PANAISSEY.	" x "	[L.S.]
	NAOQUABAGO.	" x "	PAPASAINSE.	" x "	[L.S.]
	WABOKEKICK.	" x "	ASHEWASEGA.	" x "	[L.S.]
20	KITCHEPOSSEGUN.	" x "	KAGISHEWAWETUNG.	" x "	[L.S.]
	(by Papasainse.)	" x "	(by Baboncung).		
	WAGEMAKE.	" x "	SHAWONEBIN.	" x "	[L.S.]
	PAMEQUONAISHCUNG.	" x "			[L.S.]

Signed, sealed and delivered at Sault Ste. Marie, the day and year first above written, in presence of

	ASTLEY P. COOPER, <i>Capt. R. B.</i>	GEO. JOHNSTON, <i>Interpreter.</i>
	GEORGE IRONSIDE, <i>S. I. Affairs.</i>	LOUIS CADOTT.
30	A. N. BALFOUR, <i>2nd Lieut. R. Batt.</i>	J. B. ASSIKINACK.
	ALLAN MACDONELL.	J. W. KEATING.
		JOS. WILSON.

Witnesses to signatures of Muckata Mishaquet, Mekis, Mishoquetto, Asa Waswanay, and Pawiss—

T. G. ANDERSON, *S. I. A.* W. SIMPSON.
W. B. HAMILTON. ALFRED A. THOMPSON.

STATEMENT OF THE INDIAN FUND OF THE LATE PROVINCE OF CANADA.

*Report of the Commissioner of Crown Lands, Canada, for the year ending 31st December, 1866.**

INDIAN AFFAIRS.

40 The receipts for lands and timber for the year commencing 1st January, 1866, and ending 31st December, 1866, were \$92,455.10; interest on investment for the same period \$121,628.53; annuities and grants \$35,420.00, making a total of \$249,503.63.

The payments made, comprising annuity and interest money to Indians, and salaries, surveys and incidental expenses, amounted for the same period to \$140,469.66.

On the 1st January, 1866, the total sum, as represented in the books of this office, at the credit of the various Indian bands was \$1,630,833.61. At the termination of the year ending 31st December, 1866, from payments of instalments on lands, from new sales, timber, etc., the amount, after defraying salaries, and all other charges was \$1,739,867.58,† shewing an increase of \$109,033.97.

* Sess. Papers, Can., 1867-8, p. ix.

† Appendix 28 (d), annexed to the Report, shews that, with the exception of about \$90,000, this sum belongs to the Tribes of Upper Canada.]

Appendix 28 (d) to the foregoing Report.*

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[Extract.]

Statement showing the balances of the several accounts at the close of the year.

(1) Ontario.	TRIBE OR FUND.	Credit Balances, 31st Dec., 1866.	
	Albert Anthony	\$ 582 08	
	Abenakis of St. Francis.....	20 27	
	Batchewana Indians	2,586 46	
	Chippewas and Munsees of the Thames	19,679 76	
	Chippewas of Saugeen.....	101,500 16	
	Chippewas of Sarnia	75,091 83	
	Chippewas of Nawash	119,035 47	10
	Chippewas of Walpole Island.....	5,933 72	
	Chippewas of Rama.....	9,424 50	
	Durham Indians.....	529 92	
	General Fund Provisional Account	7,837 79	
	Iroquois of St. Regis	30,745 52	
	Iroquois of Caughnawaga.....	1,155 20	
	Industrial School Fund	43,597 29	
	Lake of Two Mountains Indians	384 00	
	Lower Canada Indians	41,044 14	
	Lake Huron Indians on Missisaga River	103 36	20
	Lake St. John Indians	711 39	
	Mississaguas of the Credit.....	64,763 29	
	Mohawks of the Bay of Quinté	53,565 40	
	Mississaguas of Alnwick	22,155 32	
	Mississaguas of Scugog.....	1,936 04	
	Mississaguas of Rice and Mud Lakes	61 73	
	Munsees of the Thames.....	2,648 85	
	Ojibewas of Lake Huron	114 80	
	Payments in liquidation of J. B. Clench's deficits	712 11	
	River Desert Indians	7,245 10	30
	Chief Tetomonais and his band at Gros Cap.....	928 73	
	Wyandottes of Anderdon	40,176 40	
	Ojibewas of Lake Superior .....	.....
	Beausoleil Indians	8,583 45	
	Garden River Indians	1,030 81	
	Chippewas of Snake Island	4,189 96	
	Moravians of the Thames.....	96,054 37	
	Pottawattamies of Walpole Island	59 58	
	Six Nations of the Grand River	793,991 76	
	Indian Land Management Fund	173,750 86	40
	Ojibewas and Ottawas of Manitoulin Island	1,924 73	
	Isle Verte Island.....	15 52	
	William Wabbuch	2,000 00	
	James Manace.....	1,500 00	
	Nancy Maiville	2,500 00	
	Balance 31st December, 1866	\$1,739,871 67	
	Deduct, Dr. Balance at close of year	4 09	
	Amount at Debit of Government, 31st December, 1866, as per Departmental Books and Accounts current herewith	\$1,739,867 58	50

C. T. WALCOT,
*Acc. Indian Affairs.*WM. SPRAGGE,
*D. S. I. A.*INDIAN OFFICE, CROWN LANDS DEPARTMENT,
Ottawa, 22nd February, 1867.

Appendix No. 28 (g) to Report of the Commissioner of Crown Lands (Canada) for 1866.

Statement showing the quantity of Surveyed Surrendered Indian Lands [of the Province of Canada] remaining unsold, with their computed average value, on 31st December, 1866.*

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TOWNSHIPIPS.	WHERE SITUATED.	ESTIMATED NO. OF ACRES.	AVERAGE VALUE PER ACRE.
Amabel	Saugeen Peninsula.....	8,478½	\$ cts. 2 50
Keppel.....	do	14,220	2 50
Albemarle	do	26,095	2 50
Sarawak.....	do	281½	2 50
Half-mile Strip.....	do	564	2 50
Indian Reserve, Cape Croker	do	15,586	1 00
Eastnor	do	55,456	1 00
Lindsay	do	69,084	1 00
St. Edmund	do	66,720	1 00
Macdonald	Lake Huron, North Shore.....	18,801	0 50
Aweres.....	do	21,544	0 50
Fenwick	do	17,330	0 50
Kars	do	10,910	0 50
Pennefather	do	18,278	0 50
Dennis	do	3,537	0 50
Neebing	Lake Superior.....	20,660	0 50
Pai-Poonge.....	do	43,846	0 50
Tyendinaga.....	Bay of Quinté.....	7,250	2 50
Thorah Island.....	Lake Simcoe.....	1,001	4 00
Bidwell	Manitoulin Island, Lake Huron.....	26,634	0 50
Howland	do do	26,938	0 50
Sheguiandah.....	do do	28,252	0 50
Billings	do do	17,596	0 50
Assichinach	do do	14,901	0 50
Tehkumnah	do do	32,583	0 50
Tilley	Batchewanung Bay	14,547	0 50
Fisher	do	11,779	0 50
		592,872	

C. T. WALCOT,
Acc. Indian Affairs.

WM. SPRAGGE,
D. S. I. A.

INDIAN OFFICE, CROWN LANDS DEPARTMENT,
Ottawa, 22nd February, 1867.

*Unsurveyed surrendered Indian Lands of the Province of Canada, remaining unsold
31st December, 1866.*

10 [This statement does not appear in any published return. Application has been made for it to the Indian Department, but it had not been received up to the time of going to press].

EASTERN BOUNDARY UNDER LAKE HURON TREATY OF 1850.

The Deputy Minister of the Interior (Canada), to the Under Secretary of State.†

6th October, 1877.

SIR,—I have to acknowledge the receipt of your letter of the 4th instant, covering copy of a letter addressed to the Secretary of State on the 1st instant, by the Assistant-Secretary of the Province of Ontario, and of the enclosure therein; and to request that the Ontario Government may be informed that the eastern boundary of the territory covered by the Treaty made with the Ojibeways of Lake Huron on the 9th September, 1850, is not strictly defined in that Treaty, but may be considered to be a line running southward, striking the east shore of Lake Nipissing and
20 extending to a point due east from Moose Deer Point.

I am, &c.

E. A. MEREDITH,
Deputy of the Minister of the Interior.

E. J. Langevin, Esq.,
Under Secretary of State.

* Sess. Papers, Can., 1867-8, No. 6, p. 171. † Sess. Papers Can., 1879, No. 127, p. 33.

ONTARIO.

The long-standing question of the right of the Mowhawks of the Bay of Quinté to certain Clergy Reserve Lands in the Township of Tyendinaga, which were improperly appropriated as such at the time of the survey of that township, was, I am glad to report, finally decided in favor of the Indians by Order of His Excellency in Council of the 25th January last, and the portion of the proceeds of sales thereof realized prior to Confederation, amounting to \$8,051.45, was transferred to the credit of Indian funds in the books of the Finance Department, and to the credit of the band in the books of the office.

The Ontario Government was also requested to account to this Department for all moneys received *since* the date of Confederation on account of the same lands, and to transfer the unsettled accounts of purchasers thereof to this Department for collection, as well as any of those lands which remain unsold, to be disposed of for the benefit of the Band interested therein.

The Ontario Government has not yet complied with the requirement; they have, however, acknowledged their liability in the matter.

Extract from Report of Deputy Superintendent-General of Indian Affairs, appended to the Report of the Minister of the Interior (Canada), for 1878.†

The Mississagua Indians of Alnwick, in the County of Northumberland, having expressed a desire that the portions of their reserve proposed to be leased for their benefit should be surveyed, a sub-division survey of the said lands was authorized, and is now being made. 10

The lands in question have been hitherto leased by the Indians themselves at unremunerative rates. Leases granted by Indians being illegal, it was considered advisable to obtain a surrender of the lands from the Indians, with a view to their being regularly leased by the Department at profitable rates for their benefit.

A very important claim has been made by the Mississagua Indians of Rice, Mud and Scugog Lakes, as well as by the Chippewas of Lakes Huron and Simcoe, to a very large tract of land lying north of the 45th degree of latitude, and extending between the Ottawa River on the east, and a line due south from Lake Nipissing on the west. These Indians assert that they never surrendered the land in question; and no record can be found among the archives of this Department, or among those in the Crown Lands Department of the Province of Ontario, of any surrender of the tract. 30

The assertion of the Indians is, consequently, so far borne out; and they would appear to be entitled to compensation for the lands included within the tract described.

These lands for the most part have been surveyed, and comprise many townships; and much of the land was sold by the Government of the late Province of Canada, and since Confederation by the Government of Ontario to settlers, and the timber thereon to a large extent has been disposed of to lumberers.

The Ojibeway band of Indians, who in the year 1859 surrendered the reserve which belonged to them, and which is situated on the Thessalon River, on the north shore of Lake Huron, on the understanding that they would remove to the Garden River Reserve near Sault Ste. Marie, and that the land covered by the surrender was to be sold for their benefit,—having failed to take up land 40 on the Garden River Reserve, as proposed, and the tract surrendered by them on the Thessalon River having been surveyed, as stated in my report of last year, and the land brought into market, petitioned the Government to be allowed to re-occupy a portion of their former reserve, and His Excellency was pleased by Order in Council of 8th October last, to direct that they should be allowed to re-occupy 2,327 acres of the same.

* Sess. Papers, Can., 1878, No. 10.

† Sess. Papers, Can., 1879, No. 7.

Abstract of such Absolute Surrenders made by the Indians to the Crown as are of record in the
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(1) Ontario.

No.	DATE.	TRIBE.	TRACT OF LAND SURRENDERED.	CONSIDERATION.
1	May 12, 1781...	Chippewa.....	Grosse Isle.....	£5,000.
116	May 15, 1786...	Ottawa & Chippewa	Tract on S. Side of Detroit River.....	
2	May 19, 1790...	Ottawa, Chippewa, Pottawattamie & Huron.	Rivière au Chaudière, Tract on N. Side of Lake Erie.	£1,200.
3	Dec. 7, 1792...	Mississagua.....	Tracts between Lakes Erie and Ontario...	£1,180 7s. 4d.
3 $\frac{1}{2}$	Oct. 24, 1795...	Mississagua.....	3,500 acres near outlet of Burlington Bay.	£100.
6	Sept. 7, 1796...	Chippewa.....	32,000 acres North of River Thames.....	£1,200.
7	Sept. 7, 1796...	Chippewa.....	800 acres at Chenail Ecarté.....	£800.
8	Aug. 21, 1797...	Mississagua.....	3,450 acres at Head of Lake Ontario.....	£75 2s. 6d.
5	May 22, 1798...	Chippewa.....	Islands in Penetaanguishene, Nottawasaga, and Sturgeon Bays.	£101.
10	Feb. 5, 1798...	Six Nations.....	352,707 ac. on both sides of Grand River..	£44,867.
11	June 30, 1798...	Chippewa.....	St. Joseph's Island between Lakes Superior and Huron.	£1,200.
13	Aug. 1, 1805...	Mississagua.....	250,880 acres on River Etobicoke.....	10s.
14	Sept. 6, 1806...	Mississaguas of the Credit.	85,000 acres on River Etobicoke.....	£1000.
20	16 Nov. 18, 1815...	Chippewa.....	250,000 ac. between Kempenfelt Bay and Lake Huron.	£4000.
17	Aug. 6, 1816...	Mississaguas of Aln- wick.	428 acres in Township of Thurlow.....	£107.
18	Oct. 12, 1818...	Chippewa.....	1,592,000 acres in Huron Tract.....	£1,200 in goods yearly.
19	Oct. 28, 1818...	Mississaguas of the Credit.	648,000 acres in the Huron District called the Mississagua Tract.	£522 10s. in goods yearly.
20	Nov. 5, 1818...	Chippewas of Rice Lake.	1,951,000 acres between Western Boundary of Home District and the Northern En- trance of Lake Simcoe.	£740 in goods yearly.
30	21 Mar. 9, 1819...	Chippewa.....	552,190 acres North of River Thames.....	£600 yearly, $\frac{1}{2}$ in specie, $\frac{1}{2}$ in goods.
24	July 20, 1820...	Six Nations.....	32,280 ac. in Mohawk Township, County of Hastings.	£450 yearly.
25	July 8, 1822...	Chippewa.....	580,000 ac. known as "Longwood Tract" on N. of River Thames.	£2 10s. yearly in goods to each member of Tribe.
27	Nov. 28, 1822...	Mississaguas of Bay of Quinté.	2,748,000 acres in Midland and Johnston Districts.	£64 5s and £62 10s yearly.
29	July 10, 1827...	Chippewas of Che- nail Ecarté and St. Clair.	2,200,000 acres in Western and London Districts.	£1,100 yearly.
40	30 April 19, 1830...	Six Nations.....	807 acres in County of Wentworth.....	5 shillings.
31	April 19, 1831...	Six Nations.....	20,670 8-16 acres in County of Haldimand.	5 shillings.
47	Oct. 25, 1836...	Moravian Indians...	Lands north of River Thames.....	£600 yearly.
60	Sept. 7, 1850...	Ojibewas of Lake Superior.	Lake Superior Tract.....	£2,000, and £500 perpetual annuity.
61	Sept. 9, 1850...	Ojibewas of Lake Huron.	Lake Huron Tract.....	£2,160, and £600 perpetual annuity.
124	Aug. 3, 1871...	Chippewas and Swampy Crees.	Land embraced in Treaty No. 1.....	\$3 each annually, afterwards \$5, and to each chief \$25 annually, and suit of clothes triennially.
50	125 Aug. 21, 1871...	Chippewas.....	Land embraced in Treaty No. 2.....	Same as in No. 124.
131	Oct. 3, 1873...	Saulteaux.....	Land embraced in Treaty No. 3.....	\$12 each, and about same annual terms as in No. 124, with \$1,500 yearly in net, twine, etc.
135	Sept. 15, 1874...	Crees, Saulteaux, etc.	Land embraced in Treaty No. 4.....	\$25, \$15 and \$12 each, to chiefs, head men and others; an- nual terms same as in No. 124, with \$750 yearly in twine, ammunition, etc.
60	149 Sept. 20 and 24, 1875.	Saulteaux and Swampy Crees.	Land embraced in Treaty No. 5.....	Same annual terms as in No. 124, with \$500 annually in twine, ammunition, etc.

Abstract of such Absolute Surrenders made by the Indians to the Crown as are of record in the Department of Indian Affairs.—Continued.

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No.	DATE.	TRIBE.	TRACT OF LAND SURRENDERED.	CONSIDERATION.
157	Aug. 23 and 28, and Sept. 9, 1876.	Plain and Wood Crees.	Land embraced in Treaty No. 6.....	Same annual terms as in Treaty No. 124, with certain tools and \$2,000 annually for three years for provisions.
163	Sept. 22, 1877..	Blackfeet, Blood, Piegan, Sarcee, Stoney and other Indians.	Land embraced in Treaty No. 7.....	Same annual terms as in Treaty No. 124, with tools, etc., and \$2,000 annually in purchase of ammunition.

(To such of the above as are original surrenders, there may be added the Surrender by the Manitoulin Treaty and the Surrender of the Saugeen Territory, to Sir F. B. Head, both in 1836).

[See also the papers relating to this Province in common with other Provinces, Sub-sections 3 and 4 of this Section, *post*; also the Correspondence between the Secretary of State for the Colonies and the Governors of the British North American Provinces, 1836-1838, in the section "Imperial Correspondence and Documents," *ante*.]

(2) Quebec.

2.—PROVINCE OF QUEBEC.

CROWN LANDS OF THE PROVINCE.

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*Report of the Commissioner of Crown Lands of the Province of Quebec, for the 18 months ending the 31st December, 1868.**

CROWN LANDS.

By adding 54,014 acres surveyed and offered for sale within the eighteen months to 6,329,566 acres disposable on the first of July, 1867, deducting the lots disposed of by sale or free grants, the number of acres now disposable amounts to 6,170,385.

CLERGY LANDS.

During the eighteen months, 17,984 acres have been sold, which being deducted from the quantity, viz.: 246,858 acres, remaining for sale on the first of July, 1867, shows a balance of 229,974 acres now disposable.

20

VACANT LANDS.

The Province of Quebec has, at this moment, ready for the settler, 6,400,379 acres of surveyed lands, nearly all easy of access, already known, and of which at least two-thirds are fit for cultivation.

This, however, is not the whole territorial wealth of the Province. By consulting the reports of the surveyors who have recently explored regions hitherto almost unknown as to their fitness for settlement, and of which the Deputy Surveyor-General, Mr. Bouchette, gives a recapitulation, it

* Sess. Papers, Quebec, 1869, pp. 5, 6, 7, 8, 13.

will be seen that there is sufficient to satisfy most fully the most extravagant hopes of our people. The explorations made by Mr. Surveyor Wagner, in several directions on the tributaries of Ottawa, prove that there is there an area of about 1,500,000 acres of good land fit for cultivation, well watered, fertile, and productive. More to the east, and in about the same latitude, the extensive valleys of the Matawan and of the Assumption, have an area of 500 square miles, of a rich soil, and where some attempts at culture have been attended with most satisfactory results.

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The St. Maurice furnishes likewise its contingent of good lands not yet surveyed, but which preliminary explorations have ascertained to exist in considerable quantities in various places.

Then, there is the great plateau observed by Mr. Bouchette in 1828, and, more recently visited by Mr. Surveyor Gaudet, comprising 500 square miles, extending along the River Batiscan, from the Fief Perthuis to a point opposite to the City of Quebec.

Lastly, on the Upper Saguenay, the territory of Lake St. John, which comprises a surface of 1,000,000 acres partly surveyed, of which the soil and climate are to-day favourably known by the success of the few settlers who have there fixed their future homes and future welfare. There is therefore to the north of the first chain of the Laurentides a succession of valleys which we may be justified in calling a country, and which future explorations, when required by circumstances, will render popular by making it better known.

On the south of the St. Lawrence, the Government of your Excellency will be able, a few months hence, to have ready for settlement, the vast territory of the Metapedia, which will be traversed through its entire length by the Intercolonial Railway.

*Report of the Deputy Surveyor-General. appended to the foregoing Report of the Commissioner of Crown Lands.**

SUPERFICIAL EXTENT OF THE PROVINCE.

[The report shews that this does not include any territory to the north of the height of land, pp. xiii., xv.]

The superficial extent of the Province of Quebec, agreeably to its existing and established boundaries with the United States, under the Ashburton Treaty, also with the adjacent Provinces of Ontario and New Brunswick, under the British North America Act, may be set down at about 202,000 square miles,

Or in round numbers at.....		129,000,000 acres.
Area granted "en Fiefs and Seigneuries" about.....	10,678,931	
Crown Lands sub-divided into farm lots to the 30th June, 1868.....	15,351,312	
Quantity not yet granted or disposed of..	6,400,359	
Quantity granted.....	8,950,953	8,950,953
Total of area granted or alienated in the Province.....	19,629,884	19,629,884
Total		109,370,116
Area organized into townships under surveyed outlines not yet subdivided.....		1,887,986
Total area of waste and unsurveyed lands		107,482,130

* Sess. Papers, Quebec, 1869, p. 13.

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[See also the papers relating to this Province in common with other Provinces, sub-sections 3 and 4 of this section, *post*; also the Correspondence between the Secretary of State for the Colonies and the Governors of the British North American Provinces respecting the Indians, 1836-1838, in the section "Imperial Correspondence and Documents," *ante*.]

3.—REPORTS RELATING TO THE PROVINCES OF ONTARIO AND QUEBEC.

REPORT OF THE COMMISSIONERS APPOINTED TO ENQUIRE INTO THE AFFAIRS OF THE INDIANS IN CANADA, DATED 22ND JANUARY, 1844,

*Laid before the Legislative Assembly, 20th March, 1845.**

[This Report is addressed to Governor-General Sir Charles Metcalfe, and is made pursuant to the Commission in that behalf of Governor-General Sir Charles Bagot, dated 10th October, 1842.] 10

SECTION I.

HISTORY OF THE RELATIONS BETWEEN THE GOVERNMENT AND THE INDIANS.

The spirit of the British Government towards the Aborigines of this continent, was at an early date characterized by the same forbearance and kindness which still continues to be extended to them.

In 1670, during the reign of Charles II., a code of instructions was issued for the guidance of the Governors of Colonies, from which the following are extracts.

"Forasmuch," it is there said, "as most of our Colonies do border upon the Indians, and peace is not to be expected without the due observance and preservation of justice to them, you are in our name to command all the Governors that they at no time give any just provocation to any of the said Indians that are at peace with us," etc.

With respect to Indians who desired to place themselves under British protection, the instructions were that they should be received; and that the Governors "do by all ways seek fairly to oblige them, and that they do employ some persons to learn the languages of them, and that they do not only carefully protect and defend them from adversaries, but that they more especially take care that none of your own subjects, nor any of their servants do any way harm them. And that if any shall dare to offer any violence to them in their persons, goods or possessions, the said Governors do severely punish the said injuries, agreeably to right and justice. And you are to consider how the Indians and slaves may be best instructed and invited to the Christian religion, it being both for the honour of the Crown and of the Protestant religion itself, that all persons within any of our territories, though ever so remote, should be taught the knowledge of God and be made acquainted with the mysteries of salvation."† 20 30

During the wars which Great Britain waged with France, and subsequently with the United States, on this continent, both parties used their utmost endeavours to attach the Indians to their cause, and to incite them to join their standard. In this they were but too successful. The warlike character of their people, the temptation which the presents and encouragement of the "Red Coat" ‡ offered, and the opportunity which the occasion presented for prosecuting their

* Appendix (E E E) to Journals of the Legislative Assembly of the Province of Canada, 1844-45; and continued in Appendix (T) to the Journals, 1847.

† Harleian MSS., British Museum.

‡ English Generals.

revenge against their adverse tribes, led a great part of the race into the field. The history of this period affords abundant evidence of their enterprise and prowess as warriors, with many remarkable instances of heroism and magnanimity, and no less striking examples of bloody revenge and savage cruelty.

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At the conquest of Canada, the same spirit of forbearance was shown towards the Indians, as well those who had fought on the French side, as those who had espoused the British cause. All within the Province were alike taken under the protection of the British Government. The 40th Article of the Capitulation of Montreal, recites that, "The Savages or Indian Allies of His Most Christian Majesty shall be maintained in the lands they inhabit, if they choose to reside there; they shall not be molested on any pretence whatsoever, for having carried arms and served His Most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their missionaries."

The subsequent proclamation of His Majesty George Third, issued in 1763, furnished them with a fresh guarantee for the possession of their hunting grounds and the protection of the Crown. This document, the Indians look upon as their Charter. They have preserved a copy of it to the present time, and have referred to it on several occasions in their representations to the Government.

The resident tribes were thus left undisturbed, and at the close of the American war in 1784, the Government granted to the Confederacy of the Six Nations who had loyally maintained the British cause during that struggle and were desirous of removing from their old hunting grounds within the United States, a large block of the most valuable land in Upper Canada, containing about 674,910 acres, which it had previously purchased from the aboriginal occupants.

This grant was made without any condition or restriction except that the lands should not be alienated without the consent of the Crown.

Since 1763, the Government, adhering to the Royal proclamation of that year, have not considered themselves entitled to dispossess the Indians of their lands, without entering into an agreement with them, and rendering them some compensation. For a considerable time after the conquest of Canada, the whole of the western part of the Upper Province, with the exception of a few military posts on the frontier, and a great extent of the eastern part, was in their occupation. As the settlement of the country advanced and the land was required for new occupants, or the predatory and revengeful habits of the Indians rendered their removal desirable, the British Government made successive agreements with them for the surrender of portions of their lands.

The compensation was sometimes made in the shape of presents, consisting of clothing, ammunition and objects adapted to gratify a savage taste; but more frequently in the shape of permanent annuities, payable to the tribe concerned, and their descendants forever, either in goods at the current price, or in money at the rate of ten dollars (£2 10s.) for each member of the tribe at the time of the arrangement.

Of these agreements the Commissioners submit in the Appendix (66 and 67) a Schedule, showing the date, the tribe, the extent of the surrender, and the amount of compensation.

As these transactions have been made the subject of reproach to the Government and a ground for subsequent claims on behalf of the Indians, it may be proper here to offer a few remarks on that subject.

It has been alleged that these agreements were unjust, as dispossessing the natives of their ancestral territory, and extortionate, as rendering a very inadequate compensation for the lands surrendered. If, however, the Government had not made arrangements for the voluntary surrender of the lands, the white settlers would gradually have taken possession of them without offering

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any compensation whatever. It would at that time have been as impossible to resist the natural laws of society and to guard the Indian territory against the encroachments of the whites as it would have been impolitic to have attempted to check the tide of immigration.

The Government, therefore, adopted the most humane and the most just course in inducing the Indians by offers of compensation to remove quietly to some distant hunting grounds or to confine themselves within more limited reserves, instead of leaving them and the white settlers exposed to the horrors of a protracted struggle for ownership.

The wisdom and justice of this course is most strongly recommended by Vattel, in his *Law of Nations*, from which the following passage is an extract:—

“There is another celebrated question to which the discovery of the new world has principally given rise. It is asked whether a nation may lawfully take possession of some part of a vast country in which there are none but erratic nations, whose scanty population is incapable of occupying the whole? We have already observed, in establishing the obligation to cultivate the earth, that these nations cannot exclusively appropriate to themselves more land than they have occasion for, or more than they are able to settle and cultivate. Their unsettled habitation in those immense regions, cannot be accounted a true and legal possession, and the people of Europe, too closely pent up at home, finding land of which the savages stood in no particular need, and of which they made no actual and constant use, were lawfully entitled to take possession of it and to settle it with colonies. The earth, as we have already observed, belongs to mankind in general, and was designed to furnish them with subsistence. If each nation had from the beginning resolved to appropriate to itself a vast country, that the people might live only by hunting, fishing and wild fruits, our globe would not be sufficient to maintain a tenth part of its present inhabitants. We do not therefore, deviate from the views of nature, in confining the Indians within narrower limits. However, we cannot help praising the moderation of the English Puritans, who first settled in New England, who, notwithstanding their being furnished with a charter from their Sovereign, purchased of the Indians the lands of which they intended to take possession. This laudable example was followed by William Penn, and the colony of Quakers that he conducted to Pennsylvania.”

Nor can the friend of the Indian claim for him a monetary compensation based on the present value of the land, which has been created solely by the presence and industry of the white settlers. Its only value to the denizen of the forest, was as a hunting ground, as the source of his supply of game and furs. Of the cultivation of the soil, he then knew nothing. The progress of settlement, and the consequent destruction of the forests, with the operations of the lumberer, and fur trader was shortly about to destroy this value; in every case the Indians had either the opportunity of retreating to more distant hunting grounds, or they were left on part of their old possessions, with a reserve supposed at the time to be adequate to all their wants, and greatly exceeding their requirements as cultivators of the soil at the present day, to which were added the range of their old haunts, until they became actually occupied by settlers, and in many cases, an annuity to themselves and their descendants forever, which was equivalent at least to any benefit they derived from the possession of the lands.

If subsequent events have greatly enhanced the value of their lands, it has been in consequence of the speedy and peaceable settlement of the country, by means, chiefly, of the agreements in question, and the Indians are now in possession of advantages which far exceed those of the surrounding white population, and which afford them the means, under a proper system of mental improvement, of obtaining independence, and even opulence.

These agreements have been faithfully observed by both parties.

The Indians have not disputed the title of the Crown to the lands which they have surrendered.

The British Government have always considered the Indians to be under their special charge.

In the Lower Province the tribes were early converted and collected into settlements by the Jesuits, who received large grants of land from the French Crown for this service.

Upon the conquest, the Crown took possession of these estates, and thus cut off any further benefit which the Indians might have derived from them.

As the Indian lands were held in common and the title to them was fixed in the Crown as their Guardian, the Indians were excluded from all political rights, the tenure of which depended upon an extent of interest not conferred upon them by the Crown.

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SECTION II.

PAST AND PRESENT CONDITION OF THE INDIANS.

10 The earliest detailed information on the condition of the Indians to which the Commissioners have had access, is that contained in General Darling's Report, made in July, 1828, which embraced the tribes in both Provinces. No similar document appears among the printed records, until the year 1837, of which date are the replies of the two Governors, to the queries put by the Lords of the Treasury, and the Report of the Committee of the Executive Council in Lower Canada. These, however, will enable the Commissioners in some degree to exhibit the progress of the several bands of Indians, up to the present time.

It is necessary to premise that there appears to be at present a marked difference between the Indians in Canada East and Canada West (Lower and Upper Canada). In the former Province the native tribes had, from a period as remote as the middle of the seventeenth century, up to the
20 Conquest, been under the especial care and direction of the Jesuit Missionaries, who collected some of them in the settlements which now exist, obtained grants of land for them from the French Crown, to be applied to their education and civilization, and became themselves their instructors in so much of the knowledge and arts of life as they thought it advisable to impart to them. These Indians therefore early embraced Christianity, and became members of the Roman Catholic Church, zealous devotees at the shrines of their saints, and docile but unenlightened followers of their appointed missionaries. Since the cession of the Province to Great Britain, when the Crown succeeded to the Guardianship of the Indians, little or no advance has been made in their education and improvement. Their conversion being already complete, there was no strong incentive or call for fresh measures on the part of the Government, and the missionaries, who were not dis-
30 turbed in their appointments, were not likely to initiate any.

I.

INDIANS OF CANADA EAST.

The last return of Indians in Canada East, states their number at 3727, exclusive of a small body, at the King's Posts, on the River Saguenay, within the territory of the Hudson's Bay Company, which, however, never come under the observation and protection of the Government.

The Indians of Lower Canada, belong to seven tribes, viz :—Iroquois, Algonquins, Nipissings, Abenauquais, Hurons, Amalacites and Micmacs, and occupy seven villages or settlements, viz :—

1. Caughnawaga, on the Lake St. Louis, near Montreal, (Iroquois).
2. At St. Regis, at the head of Lake St. Francis, (Iroquois).

40 3. At the Lake of Two Mountains, on the Ottawa, about thirty-six miles north-west of Montreal, (Iroquois, Algonquins and Nipissings).

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4. At St. Francis on the River of that name, (Abenaguais).
5. Bécancour, on the River Bécancour, nearly opposite the town of Three Rivers, (Abenaguais).
6. La Jeune Lorette, nine miles north of Quebec, (Hurons).
7. Restigouche, on the River of that name, in the Bay of Chaleurs, (Micmacs).

These settlements and the lands which they possess elsewhere are secured to them either by deeds from the French or British Government, or from individual proprietors, or they hold them by long undisputed possession, confirmed by the Proclamation of 1763, already adverted to.

A general view of the Indians of Canada East is shewn in the following table. A description of the several bands will supply the information peculiar to each.

TABLE.

10

Names of the tribes.	Where Settled.	Total Population.
Iroquois	Caughnawaga	955
"	St. Regis	450
Algonquins	Lake of Two Mountains	333
Nipissings	" "	263
Iroquois	" "	316
Abenaguais	St. Francis	358
"	Becancour	84
Hurons	La Jeune Lorette	189
Algonquins	In the neighborhood of Three Rivers	92
Têtes de Boule	River St. Maurice	86
Amalacites, Micmacs } and Abenaguais. }	Uncertain.	180
	Grand Total	3301

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I. IROQUOIS OF CAUGHNAWAGA OR SAULT ST. LOUIS.

This settlement is at Caughnawaga, a village on Lake St. Louis, ten miles west of the City of Montreal. The village covers about forty acres of ground. It contains forty-five stone houses, 182 wooden houses, and 100 barns and stables of the latter material. The population is upwards of 1,100, but the number of Indians entitled to receive presents is only 955, the remainder being half-breeds.

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The Seigniory of Sault St. Louis, was granted to the Jesuits in the year 1680, "*Pour contribuer à la conversion, instruction et subsistence des Iroquois.*" This concession was made by two separate instruments; the first from Louis XIV, dated 29th May, 1680, confined the grant to a front of two leagues; the second from the Comte de Frontenac, dated 31st October, 1680, made an addition to that front of one league and a half or thereabouts, by a depth of two leagues. The title deeds contain a clause to the effect, "*que la dite terre nommée Le Sault appartiendra toute défrichée à sa Majesté lorsque les dits Iroquois l'abandonneront.*"

The Seigniory continued under the superintendence and management of the Jesuits until the 15th April, 1762, when it was entirely and exclusively vested in the Iroquois, under the supervision of the Indian Department. The terms and conditions of the new titles or declarations, under the Letters Patent *de Tennier*, dated 19th December, 1827, are such as are usual, and have been

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stipulated in the grants made in the Seigniories heretofore belonging to the late order of Jesuits in this Province.

The quantity of land under cultivation in this settlement is about 2,250 acres; in 1837 it was reported to be 2,230 acres.

2. IROQUOIS OF ST. REGIS.

These Indians occupy a tract of land intersected by the boundary line of the Province, on the parallel of 45 degrees N. latitude, so that the southern portion of the tract belongs to the State of New York, and the Indians occupying it are American subjects. This circumstance has at various times given rise to feuds and disputes, to which, since the Treaty of Washington has now removed all doubts to the true line, it is very desirable to put an end as far as possible, by determining and clearly making out the line of boundary throughout the tract; the village is wholly within the Canadian Territory.

The portion of land occupied by the British Indians is of a triangular form, extending from the Peninsula of St. Regis, on which the village is situated, about twelve miles along the shore of the River St. Lawrence, and Lake St. Francis, by which it is bounded on the north; along the boundary line on the south, it extends nearly fourteen miles; on the east it is bounded by the Township of Godmanchester. Its area is about 21,000 acres.

The village covers about thirty acres; it contains seventy-nine dwelling-houses, and fifty-one small barns and stables, all of wood, owned and occupied by British Indians, and forty houses and twenty-eight barns and stables, also of wood, owned and occupied by American Indians.

The number of British Indians entitled to receive presents is 450. The American Indians are stated to be more numerous.

Besides the land at St. Regis, those Indians are also the proprietors of nine islands in the River St. Lawrence, and of a Reservation of land, called Natfield, in the Eastern District of the Upper Province, lying between the counties of Stormont and Glengarry, and containing 30,690 acres.*

These lands form but a small portion of the hunting grounds of the once powerful Iroquois Nation, and were supposed to have been occupied by this tribe since the first settlement of Canada.

Their title was originally a mere occupancy for the purpose of hunting, but it was recognized and acknowledged by the Government of France before the Conquest, and was subsequently secured to them by that of England, in common with all similar titles existing at the time of the Conquest.

About the year 1769, when the vicinity of the new settlement had rendered the tract in Lower Canada useless as a hunting ground, the Iroquois Indians, in order to turn it to advantage, leased out all but a Reserve of about 3,000 acres, in small farms to settlers, for an annual rent, and since the year 1822, the leases so granted have been ratified and confirmed by the Commander of the Forces or the Governor. These leases are granted for periods varying from thirty to ninety-nine years. The reservation in Upper Canada has been nearly all granted by the chiefs upon leases of 999 years.

The Reserve in Lower Canada occupied by these Indians, although rather low and swampy in some places, is generally well adapted to agricultural purposes. The average quantity of land cultivated by the British Indians during the last ten years is about 500 acres, and the average number of families during the same period was about ninety, of which twenty-one did not employ themselves in agriculture.

* This is the extent, according to the Report of the Surveyor-General. In the Report of the Indian Department made in 1837, the extent of this Reserve and the Islands is stated to amount together to 28,250 acres.

3. THE ALGONQUINS, NIPISSINGS AND IROQUOIS AT THE LAKE OF TWO MOUNTAINS.

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The tribes at this post do not possess any lands from which a revenue is derived, and have hitherto depended upon the chase for the principal part of their support. They occupy a portion of the Seigniory of the Two Mountains, which was granted to the Seminary of St. Sulpice, at Montreal, for the maintenance and instruction of the Indians stationed there. They take as much land as they can cultivate, without paying any rent for it; but the quality of the soil throughout is very bad, the tract being a mere sand hill, and the produce bears no proportion to the extent occupied.

4. ABENAQUAIS OF ST. FRANCIS.

The lands belonging to this tribe are located within the Seigniories of St. Francis and 10 Pierreville. The extent of territory originally belonging to the Abenauquais in the Seigniory of St. Francis, comprehends half a league in depth, ascending the river, by a league in breadth. The land in Pierreville extends half a league and five acres in depth, adjoining the above, by a league and a half in breadth, the river St. Francis passing nearly through the middle of the grant. They have also acquired in the Seigniory of St. Francis about a mile more in front on the north-east side of the river only, and situated below the above mentioned block, by the depth existing between that and the adjoining Seigniory of Susandiere. They also possess fourteen islands in that part of the river which passes through their property; one of them contains probably one hundred acres, and produces a quantity of hay; the others are small, and average from one to 20 ten acres each.

The grant for St. Francis is described as a Title of Concession, dated 23rd August, 1700, from Dame Marguerite Hertel, widow of Sieur Jean Crevier, Seigneur of St. Francis, to the Abenauquais Indians, represented by their missionary, the Rev. Jacques Bigot; and that for Pierreville, in an Act passed at the Town of Three Rivers, on the 10th of May, 1701, by Sieur Antoine Plagaish and Charlotte Giguerre, his wife, to the said Indians so represented.

In these grants the Seigneurs have reserved the right of re-uniting to their respective Seigniories any land abandoned by the Indians, and of dispossessing the latter as soon as the religious mission should cease to reside upon the conceded tracts. The land in the Concessions is of a very inferior quality, consisting chiefly of a dry, sandy soil, without any admixture of clay.

In the year 1805, a number of lots in the Township of Durham, amounting to 8,900 acres, 30 were granted in free and common soccage to seventeen heads of families belonging to the Abenauquais tribe of St. Francis, for their own private use and benefit, and that of their heirs and successors forever, subject to the following conditions:—"That the said lots of land so granted, nor any nor either of them, nor any part thereof, shall in anywise be capable of being alienated, leased, transferred, conveyed, or otherwise disposed of, by our said grantees, or any or either of them, to any person or persons, in any manner or way whatsoever; and that, if at any time or times hereafter, the said lots of land so granted, or any, or either of them, or any part thereof, shall cease to be occupied by them, the said grantees, or some or one of them, or their, or some one of their lawful heirs, that then the said grant for such part thereof, which shall so cease to be occupied, shall thereupon become void and of none effect; and such part shall thereupon revert and escheat 40 to His Majesty, his heirs and successors, and become the absolute and entire property of him and them, in the same manner as if the said grant had never been made, anything herein contained to the contrary thereof, in anywise notwithstanding."

5. ABENAQUAIS OF BÉCANCOUR.

These Indians were at one time proprietors of the Seigniory of Bécancour, which was granted to them by Messere Pierre Rolirceau, Chevalier, Siegneur of Portneuf, etc., by an Act passed on

the 30th April, 1708; but by an Act passed in the year 1760 they ceded to Monsieur De Montesson, in consideration of a certain sum of money paid to them, the whole of their territory, keeping only the small portion in their actual occupation, consisting of a few acres round their village, and three small islands in the river Bécancour. Subsequent encroachments by their white neighbours have still further reduced their Reserve.

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6. HURONS OF LA JEUNE LORETTE.

These Indians have long been settled at Lorette, which is only nine miles from Quebec; they claim to be the descendants of part of those Indians, for the conversion and instruction of whom the Seigniorship of Sillery was granted to the Jesuits by the French Crown in the year 1651.

7. MICMACS OF THE RESTIGOUCHE.

10 These Indians form one of the scattered remnants of a tribe formerly numerous in Nova Scotia and New Brunswick, and whose descendants are still found lingering in the vicinity of the more populous settlements in those Provinces. They partially cultivate 325 acres, but know little about agriculture. Their reserve contains between 500 and 600 acres, but they lay claim to a further quantity of about 1250 acres, granted many years ago by the Government to a white settler, to which they appear equitably entitled, and for the loss of which they ought to be adequately compensated.

There is also a band of eighty-nine Micmac Indians settled at Cascopediack (New Richmond) on the north side of the Bay of Chaleur, but there is no information respecting them.

8. UNSETTLED TRIBES.

20 The foregoing description comprises all the settlements at present known to exist in Canada East.

In the year 1828, about thirty families of Amalacites were induced to form a settlement on a branch of the River Verte, about 140 miles below Quebec, under the auspices of the Government. By an Order-in-Council, dated 28th May, 1827, they received a grant of 3000 acres, in lots of 100 acres to each family.

Besides the Indians already described, there are a few who have no fixed place of residence, although they generally frequent certain localities, and are known by the names of those places.

1. THE ALGONQUINS OF THREE RIVERS.

30 These are ninety-two in number. With the exception of a chief, who has a farm at Batiscan, and three other families, who have houses and plots of land at Three Rivers, they do not possess any landed property, and subsist wholly by hunting and fishing.

They reside in wigwams, being unable, from their poverty, to procure or build houses. Having no land they are altogether ignorant of agriculture. Their chief resort for the chase is the river St. Maurice.

2. TÊTES DE BOULE OF THE RIVER ST. MAURICE.

These are wandering Indians, eighty-six in number, who live wholly by fishing and hunting. They are the least civilized of any tribe in the Lower Province, have no fixed residence, and never quit their hunting grounds on the upper part of the river St. Maurice, until the approach of the period for receiving their annual presents.

40 3. WANDERING AMALACITES, MICMACS AND ABENAQUAIS.

These Indians, who are for the most part in a state of complete destitution, subsist exclusively by hunting and fishing, and by the produce of fancy articles made by their women; their present number is estimated at one hundred and eighty. In 1827 they were twice as numerous. Among

them are included the Amalacites, who are supposed to have abandoned the River Verte settlement; some of the Abenaguais, who were formerly included in this number, have probably settled with their brethren at St. Francis and Bécancour.

II.

INDIANS OF CANADA WEST.

The Indians of Canada West may be divided into three classes.

1. *Resident Indians*, located within the Province.
2. *Wandering Indians*, having no fixed location, but living within the Province and the territory of the Hudson Bay Company.
3. *Visiting Indians*, resident in the United States, who attend annually to receive presents.

With regard to the two latter classes, very little information can be furnished, as they only 10 come under the observation of the Government once in the year, when they attend to obtain their presents which they have hitherto been allowed to receive on the same footing as the Resident Indians.

The existing Settlements, and the number of Indians residing at them are shown in the following table :

SUPER-INTEND-ENCIES.	SETTLEMENT.	TRIBE.	No.
1	1. On the Grand River	The Six Nations with a few other small tribes.	2223
2	2. At New Fairfield, on the River Thames, in the Township of Oxford, Western District.	Delawares (Moravians)	153
	3. At Munsey Town and Colborne on the River Thames, in the Township of Caradoc.	Chippewas and Munsees	620
	4. At New Oneida, in the Township of Delaware, adjoining the last settlement.	Oneidas	436
3	5. The Wyandott or Huron Reserve, near Amherstburg.	Chippewas, Hurons, Shawnees and Munsees.	368
	6. Point Pellée	Chippewas	
4	7. St. Clair Rapids or Upper St. Clair Reserve, in the Township of Sarnia.	Chippewas with some Pottawatimies	741
	8. At the River aux Sables on Lake Huron	“ “ “	
	9. At Kettle Point, near the last settlement	“ “ “	
5	10. Walpole Island or Chenail Ecarté	Chippewas, Pottawatimies and Ottawas	1140
6	11. Manitoulin Island, two settlements, Manitowaning and Wequemakong.	Chippewas and Ottawas	1098
7	12. Bay of Quinté, Township of Tyendenaga	Mohawks	383
	13. At the River Credit	Mississagas	239
	14. Alnwick, on Rice Lake	“	220
	15. Rice Lake	“	114
	16. Mud Lake	“	94
	17. Balsam Lake	“	90
	18. Rama, Lake Simcoe	Chippewas	184
	19. Beausoleil Island, Matchadash Bay, Lake Huron	“	232
	20. Snake Island, Lake Simcoe	“	109
	21. Saugeeng, Lake Huron	“	197
22. Big Bay, Owen's Sound, Georgian Bay	“	130	
23. In the Township of Bedford, near Kingston	Algonquins, etc.	91	
	Total		8862

Several tribes are under the charge of Local Superintendents, of whom there are six; the remainder, which consist chiefly of small bands scattered in various parts of the Province, are under the care of the Chief Superintendent, who resides at the seat of Government.

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The principal aboriginal tribes in Canada West are the Chippewas, or as their name is more correctly spelt, the Ojibeways, with the Mississagas, who are a branch of the same nation, there being some doubts which is the national term.

1.—SIX NATIONS INDIANS OF THE GRAND RIVER.

At the termination of the War of Independence, the Six Nation Indians of the Mohawk Valley, who had taken part with the British against the Americans, became apprehensive that inju-
10 rious consequences might result from their hunting grounds being within the territory assigned to the United States. They accordingly deputed their celebrated chief, Captain Joseph Brant, (Tyendenaga), to represent their fears to General, afterwards Sir Frederick, Haldimand, who was then Governor of the Province of Quebec.

In the following year, Sir F. Haldimand, by a Proclamation dated 25th October, 1784, granted to the Six Nations and their heirs, for ever, a fine and fertile tract of land on the Ouse, or Grand River, in Upper Canada, six miles in depth upon each side of the river, beginning at Lake Erie and extending in that proportion to the head of the river.

This grant was confirmed and its conditions defined by a Patent under the Great Seal issued by Lieutenant-Governor Simcoe, and bearing date 14th January, 1793.

20 The original extent of the tract was 694,910 acres, but the greater part of this has been since surrendered to the Crown, in trust, to be sold for the benefit of these tribes, and some smaller portions have been either granted by the Government in fee simple to purchasers with the assent of the Indians, or have been alienated by the Chiefs upon leases, which, although legally invalid, the Government did not at the time consider it equitable or expedient to cancel.

2.—THE DELAWARES, CHIPPEWAS, MUNSEES, AND ONEIDAS OF THE RIVER THAMES.

The Delaware settlement was one of the first established by Indians in Canada West. In 1792, the principal remnant of the once flourishing congregations of the Moravian, or United Brethren Church, in the United States, was compelled to seek an asylum in Upper Canada, where they were favourably received by the Provincial Authorities, and were permitted to settle on the
30 River La Tranche, now called the Thames. By an Order-in-Council dated 10th July, 1793, a large tract of forest land on the river, comprising about 50,000 acres, was granted for their use, on which they proceeded to build a village called Fairfield, a church and other premises, at the expense of a voluntary Society, established at Bethlehem, in the State of Pennsylvania, in the year 1787, under the name of "The Brethren's Society for the Propagation of the Gospel." By a second Order-in-Council, dated 26th February, 1799, a survey of this tract was directed to be made, and the land was appropriated to the Trustees of the Moravian Society, "to be reserved for ever to the Society, in trust, for the sole use of their Indian converts."

In 1836, these Indians were induced by Sir F. Head to surrender a large portion of their lands, about six miles square, in exchange for an annuity of £150; and the tract which they now
40 possess, situated in the Township of Orford, Western District, contains about 25,000 acres.

The Chippewas and Munsees occupy a tract of land containing about 9,000 acres, in the Township of Caradoc, within the London District, at a distance of about twenty-five miles from the Moravian village. It is only within ten years that the Chippewas have been reclaimed from a wandering life, and settled in their present location. The Munsees have been settled since the year 1800, on land belonging to the Chippewas, with the consent of that tribe. The present number of Chippewas is 378, and of Munsees, 242.

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The Oneidas are a band of American Indians, who came into Canada in the year 1840, and have purchased, with the produce of their former lands and improvements sold to the American Government, a tract of about 5,000 acres, in the Township of Delaware, District of London, which is separated by the River Thames from the Chippewa and Munsee settlements. Their number is 436.

3.—THE CHIPPEWAS, HURONS, SHAWNEES AND MUNSEES, AT AMHERSTBURG AND POINT PELEE.

The Hurons possess an extensive reserve of land on the bank of the River Detroit, a little above Amherstburg. In the year 1790, when the Council of the Four Nations, (Chippewas, Ottawas, Hurons and Pottowatomies), surrendered to the Government the extensive tract of land in Western Canada known by the name of the Huron District, they stipulated for a reservation of the hunting grounds then occupied by the Hurons and Wyandotts, which comprised 22,390 acres, extending about six miles along the shore of the River Detroit, and having a depth of seven miles. In the year 1836, in consequence of the encroachments of the whites upon these lands, and the desire which existed in that part of the country, to be allowed to settle upon them, the Government induced the Indians to surrender a large portion of their reserve in trust to be sold for their exclusive benefit. By a subsequent agreement made in the next year, by Sir F. Head, they resigned two-thirds of the reserve, the proceeds of one-third to be applied to their exclusive benefit, and those of the second and third for the general purposes of the Indians in Upper Canada. The portion of the Reserve still remaining in their possession is about 8,000 acres in extent. Upon this are settled, each on a separate farm, the Chippewas and other Indians. The Munsees and Shawnees, with respect to whom the Superintendent gives no separate information, are chiefly migratory, but the few families who have become, in some measure, stationary, live on the above Reserve, but have not had separate farms assigned to them, nor erected any dwellings.

4. CHIPPEWAS OF THE ST. CLAIR RAPIDS OR UPPER ST. CLAIR RESERVE, RIVER AUX SABLES AND KETTLE POINT.

These Indians are among the first whom Sir John Colborne endeavored to settle and civilize. Previously to 1830, they were wandering heathens like their brethren elsewhere, scattered over the western part of the Upper Province; they were drunken and dissipated in their habits, and without either religious or moral restraint. In 1830 and 31, a number of them were collected on a reserve in the Township of Sarnia, near the head of the River St. Clair, and containing 10,280 acres. A number of houses were built for them, and an officer was appointed for their superintendence.

There are two other settlements under the same superintendence, one at the River Aux Sables in the Township of Bosanquet, on a reserve of 2,650 acres, and another almost adjoining it, on a reserve of 2,446 acres at Kettle Point, where five families reside.

These Indians also possess a fourth reserve, on the River St. Clair, within the Township of Moore, containing 2,575 acres.

At present they are established chiefly on the front of the Upper Reserve, having small farms of six and a half chains in width on the River St. Clair. The total number of separate farms is 42, on sixteen of which there are good substantial log houses, erected by the Government on the first formation of the settlement; but on the lower part of the reserve, where no houses were built by the Government, the Indians reside in small log or bark houses of their own erection.

At present there are 32 families settled on the reserve, who have improved 205 acres of land; 4 individuals have improved from 10 to 30 acres; of the others, fifteen have five acres or more, and the remainder under five acres cleared.

The Indians of the River aux Sables have about 60 acres under improvement, and one log house. Those at Kettle Point have twenty acres of improved land and two log houses. The land

on the Upper Reserve was regularly surveyed and laid out in farms. The Chief, with approval of the Superintendent, placed most of the present occupants on these lands, but it is not indispensable that he should be consulted, as the members of the tribe may choose any unoccupied spot; when once in possession they are secure from intrusion, but repeated ill conduct or drunkenness would subject them to be expelled from the reserve of the chief.

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5. CHIPPEWAS, POTTAWATAMIES, AND OTTAWAS, OF WALPOLE ISLAND.

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These Indians are also known under the name of Chippewas of Chenaille Ecarté. The Chippewas who have long hunted over the waste lands above the Chenaille Ecarté and Bear Creek are a branch of the same nation which is settled in Sarnia, and share in the same annuity. The
10 Pottawatamies are recent immigrants from the United States.

The settlement at Walpole Island was commenced at the close of the American War, when Col. M'Kie, called by the Indians "White Elk," collected and placed upon the Island which lies at the junction of the River and Lake St. Clair, the scattered remains of some tribes of the Chippewas who had been engaged on the British side.

6. MANITOULIN ISLANDS.

The present settlements on Manitoulin Island are of recent establishment.

In 1835, after Mr. Superintendent Anderson had visited the Island, a scheme was matured and authorized by Sir J. Colborne, for forming an extensive establishment upon it, and for making it the future place of distribution, instead of Penetanguishene and Amherstburg, where the remainder
20 of the Western Tribes had previously been supplied.

In the spring of that year, Mr. Anderson, found, on his visit, five or six families of the Ottawa tribe, Roman Catholics, from Lake Michigan, settled in Wequamekong Bay (Smith's Sound), where they had cultivated two or three acres of land, and were living in temporary bark huts. These, and a few wandering Chippewas, were all the Indians he met with on the Island, amounting to, perhaps, seventy or eighty persons.

In 1836, the present settlement at Manatowaning, (Hudson's Sound), about 8 miles distant from Wequamekong, was commenced, some land was cleared and houses built. It does not appear how many Indians were settled on the Island this year. The first issue of presents at this post was made in the autumn, as announced by Sir John Colborne, and was attended by 2,697 individuals.

30 On this occasion the Lieutenant-Governor, Sir F. Head, was present, and formed the view of collecting at Manitoulin, not the wild Indians from the north of Lake Huron, as had been at first proposed, but all those who had settled, or were wandering among the white population, in various parts of Upper Canada. With this intention, he induced the chiefs of the Ottawa and Chippewa nations then present, to resign their exclusive rights to the occupancy of the Great Manitoulin, and all the other Islands, estimated at above 23,000, on the north shore of Lake Huron.

He also obtained from the Saugeen Indians the surrender of the greater proportion of their territory, and proposed their removal to Manitoulin. To other Indians whom he visited in the western part of Canada, he likewise made the same proposal; offering them the assistance and encouragement of the Government at this Island. These offers, however, to the settled Indians, do
40 not appear to have been generally acceptable, as few or none availed themselves of them. The settlers at the island have for the most part, come from the United States, or from the shores of Lake Huron and Lake Superior.

7. MOHAWKS OF THE BAY OF QUINTÉ.

These Indians separated from the Mohawk Nation, and settled in their present locality upon the Bay of Quinté, about the year 1784. In 1793, they received from the Crown a grant of land,

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containing about 92,700 acres; but of this, in 1820, they surrendered 33,280 acres, in exchange for an annuity £450. Their estate was then reduced to 59,400 acres. From this the Surveyor-General deducts 14,773 acres for Crown and Clergy Reserves (viz., 6,858 for the former, and 7,915 for the latter). In December, 1835, they made a further surrender of 27,857 acres, in trust, to be disposed of for their benefit, so that their present possessions do not exceed 16,800 acres. They lie within the Township of Tyendenaga, the name of which is borrowed from the original Indian settlement.

These Indians live, for the most part, in detached farms scattered over the Reserve. Their present number is 383. They have 1368 acres of land cleared, and about 500 acres under tillage.

8. MISSISSAGAS OF THE RIVER CREDIT.

These Indians are the remnant of a tribe which formerly possessed a considerable portion of 10 the Home and Gore Districts, of which, in 1818, they surrendered the greater part, for an annuity of £532 10s., reserving only small tracts at the River Credit, and at Sixteen and Twelve Mile Creeks. They were the first tribe converted to Christianity in Upper Canada.

Their reserve at the River Credit contains 3189 acres. They have disposed of their lands at the Sixteen and Twelve Mile Creeks to the Crown, in trust, for sale, for their benefit. At the Credit they cultivate about 500 acres.

9. MISSISSAGAS OF ALNWICK.

These Indians were converted to Christianity in the years 1826-7. They were then pagans, wandering in the neighbourhood of Belleville, Kingston and Gananoque, and were known under the name of the Mississagas of the Bay of Quinté; in those years, between 200 and 300 were received into the 20 Wesleyan Methodist Church, and settled on Grape Island, in the Bay of Quinté, 6 miles from Belleville, where they commenced planting, and where schools were established by the missionary for their instruction. On this Island they resided eleven years, subsisting by agriculture and hunting. Their houses were erected partly by their own labour, and partly at the expense of the Methodist Missionary Society.

These, however, were relinquished, to be sold for their benefit, in 1830, when they removed to a block of Crown Lands, granted to them by Lieutenant-Governor Sir J. Colborne, in the Township of Alnwick, not far from the Rice Lake, and fifteen miles north-east of Cobourg. This plot, which contains 2000 acres, is divided into lots of 25 acres each.

10. MISSISSAGAS OF THE RICE, MUD AND BALSAM LAKES.

30

These Indians belong to the same tribe, the Mississagas or Chippewas of Rice Lake, who in 1818, surrendered the greater part of the tract now forming the Newcastle District, for an annuity of £740. They have all been reclaimed from their primitive wandering life and settled in their present locations within the last ten or twelve years.

The Rice Lake settlement is on the northern side of the lake, and at about twelve miles from Peterborough. The number of Indians is 114. They possess about 1550 acres of land, which are sub-divided into 50 acre lots; of this, 1120 acres were granted in April 1834, to trustees, "in trust, to hold the same for the benefit of the Indian tribes in the Province, and with a view to their conversion and civilization;" and the remaining 430 have been since purchased with their own funds.

The Mud Lake Indians are settled on a point of land on the Mud or Chemong Lake, sixteen 40 miles north-west of Peterborough. They are 94 in number, and possess twenty dwelling houses, with three stables. They occupy a grant of 1600 acres in the Township of Smith made to the New England Company for their benefit, in April, 1837, of which about 200 acres are in cultivation.

The Balsam Lake Indians, 90 in number, are at present settled within the Township of Bexley, on a point of land jutting out into Lake Balsam, which is the most northerly of the chain of lakes

running north-west across the back townships of the District of Newcastle. The reserve which was granted to them by the Crown, is 1206 acres in extent. Of this they have about 200 acres in cultivation.

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11. CHIPPEWAS OF RAMA.

These Indians formerly occupied the lands about Lake Simcoe, Holland River, and the unsettled country in the rear of the Home District. General Darling reported of them in 1828, that they had expressed a strong desire to be admitted to Christianity, and to adopt the habits of civilized life; and that in these respects they might be classed with the Mississagas of the Bay of Quinté and Rice Lake, but were then in a more savage state. In 1830, Lieutenant-Governor Sir J. Colborne, collected them on a tract of land on the north-west shore of Lake Simcoe, of 9800 acres in extent, where they cleared a road between that lake and Lake Huron.

12. CHIPPEWAS OF BEAUSOLIEL ISLAND, MATCHADASH BAY, LAKE HURON.

This band, under the chief "Aisance," is the same which was settled by Sir John Colborne at Coldwater; their present village, which is not very distant from the former settlement, was only commenced last year. It contains 14 houses, and a barn; the number of the band is 232. They have about 100 acres under cultivation.

13. CHIPPEWAS OF SNAKE ISLAND, LAKE SIMCOE.

This body of Indians was one of the three bands established at Coldwater and the Narrows, and separated from them on the abandonment of those settlements. They now occupy one of the three islands on Lake Simcoe which were set apart for this tribe many years ago.

14. CHIPPEWAS OF SAUGEEN, LAKE HURON.

It was from these Indians, and their brethren, since settled at Owen Sound, that Sir Francis Head, in 1836, obtained a surrender of the vast tract of land lying north of the London and Gore Districts, and between the Home District and Lake Huron, containing about 1,600,000 acres. He reserved at the same time for the Indians the extensive peninsula lying between Lake Huron and Georgian Bay, north of Owen Sound, and supposed to contain about 450,000 acres.

They are entitled to share in the annuity of £1,250 recently granted in exchange for the Saugeen territory, surrendered to Sir F. Head.

15. CHIPPEWAS OF BIG BAY, IN OWEN'S SOUND, LAKE HURON.

These Indians were formerly either wanderers in the Saugeen tract, surrendered to Sir F. Head, or lived in scattered wigwams on the shores of Big Bay. According to the agreement then made with them, it was proposed that they should either repair to Manitoulin or to that part of their former territory which lies north of Owen Sound; upon which it was promised "that houses should be built for them and proper assistance given to enable them to become civilized and to cultivate land."

In 1842, their present settlement was permanently formed by the erection of fourteen log houses and a barn out of the proceeds of their annuity, under the direction of the Indian Department.

16. CHIPPEWAS AND OTHERS, IN THE TOWNSHIP OF BEDFORD.

Within a few years past, some stragglers from the Rice Lake tribe have settled in the Township of Bedford, about twenty-five miles north of the Town of Kingston, and recently they have been joined by a band of eighty-one Indians from Lower Canada, belonging to the post of

the Lake of Two Mountains. As the settlement is of recent formation, and the claim of these Indians upon the attention of the Department of Upper Canada has only been brought forward last year, they have not yet been visited by any officer of the Department, and no account can be given of the settlement. By instructions issued in 1843, they were transferred from the roll of Lower Canada to that of the Upper Province, and, accordingly, received their presents for the first time in that Province.

SECTION III.*

PRESENT MODE OF CONDUCTING INDIAN AFFAIRS, WITH RECOMMENDATIONS FOR ITS AMENDMENT.

Experience has shown that Indians can no longer lead a wild and roving life in the midst of a numerous and rapidly increasing white population. Their hunting grounds are broken up by settlements, the game is exhausted, their resources as hunters and trappers are cut off, want and disease spread rapidly among them, and gradually reduce their numbers. To escape these consequences, no choice is left but to remove beyond the pale of civilization, or to settle and cultivate the land for a livelihood. From this cause, and under the influence of the missionaries, few Indians remain unsettled in the inhabited parts of Canada.

But the settled and partially civilized Indians, when left to themselves, become exposed to a new class of evils. They hold large blocks of lands, generally of the most valuable description, which they can neither occupy nor protect against the encroachments of white squatters, with whom, in the vain attempt to guard their lands, they are brought into a state of constant hostility and collision. As they are exempt from any obligation to make or maintain roads through their lands, these reserves are serious obstacles to the settlement and improvement of the surrounding country, and their possessors become objects of jealousy and dislike to their neighbours.

The following abstract shows, in a Tabular Form, the value of the Indian Estates, according to the estimate of the Chief Superintendent :

TRIBES.	No. of Acres Owned.	No. of Acres to be sold.	Proceeds thereof.	Interest thereon.	Annuity.	Total Amount of Income.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.
Mohawks of the Bay of Quinté.....	92700	60000	35000 0 0	2100 0 0	450 0 0	2550 0 0
Mississagas " " now of Alnwick	8000	8000	6500 0 0	390 0 0	342 10 0	1032 10 0
" of Rice and Mud Lakes.....	3120				740 0 0	740 0 0
" of Credit	3200	3200	17000 0 0	1020 0 0	522 0 0	1784 6 0
	6450	6450	4031 0 0	241 16 0		
Six Nations—						
Lands.....			200000 0 0	12000 0 0	15000 0 0	
Grand River Stock			33000 0 0	1980 0 0		
Investment in England				900 0 0		
Estate of Mr. Canby			1700 0 0	1020 0 0		
Moravian Indians	51160	30000	2500 0 0	1500 0 0	150 0 0	1650 0 0
Chippewas of Thames.....	15360				600 0 0	600 0 0
" Chenail Ecarté	17950	13350	12500 0 0	720 0 0	1100 0 0	1820 0 0
	10000					
Saugeen Indians	400000*				1200 0 0	+1200 0 0
Wyandotte and Hurons.....	22390	13000	10000 0 0	600 0 0		600 0 0
Chippewas of Lake Huron and Simcoe	20000	12800	8000 0 0	480 0 0	1200 0 0	1680 0 0
	650370					28356 16 0

* And about £900 in Debentures in the hands of the Chief Superintendent.

† Should be £1250.

By this statement the Chief Superintendent has based his calculations upon the original possessions of the Indians, and has made no allowance for the lands which have been already

* Being the continuation of the same Report, in Appendix (T) to Journals House of Assembly, Canada, 1847.

surrendered by them to the Government, either for annuities as in the cases of the Mohawks of the Bay of Quinté, and the Moravian Indians, of the River Thames, or to be sold in trust for their benefit, which have consequently already been in part disposed of to individuals, through the Commissioner of Crown Lands. These reductions would make the disposable estate of the Indians about one-half less than the quantity stated by the Chief Superintendent, with the exception, however, of the Six Nations, whose remaining property your Commissioners do not anticipate will produce even the lesser amount of income estimated.

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TITLE TO LANDS.

Although the Crown claims the territorial estate and eminent dominion in Canada, it has ever since its possession of the Province conceded to the Indians the right of occupancy upon their old hunting grounds, and their claim to compensation for its surrender, reserving to itself the exclusive privilege of treating with them for the surrender or purchase of any portions of the land. This is distinctly laid down in the Proclamation of 1763, and the principle has since been generally acknowledged and rarely infringed upon by the Government. The same rule has been followed by the Government of the United States, who pay annuities for the surrender of Indian lands to the extent of about £140,000 a year.

In Lower Canada, where settlement had made considerable progress before the conquest, and where civilization and Christianity had been introduced among the Indians, their territorial possessions had at that time become circumscribed within defined limits, and in many instances were held by patents under the French Crown or individual seigneurs. Of these Reserves the several tribes still retain possession, and there is only one section of the country, viz., on the Ottawa, in which the Indians have been dispossessed of their ancient hunting grounds without compensation.

This encroachment, however, was not the act of the Government, but the natural consequence of the extension of the lumber trade in that direction, which has gradually cleared the country, destroyed the game, and introduced white settlers holding possession of the land without any authority on the part of the Government.

In Upper Canada, on the other hand, where at the time of the conquest the Indians were the chief occupants of the territory, where they were all Pagans and uncivilized, it became necessary as the settlement of the country advanced to make successive agreements with them for the peaceable surrender of portions of their hunting grounds. The terms were sometimes for a certain quantity of presents, such as have been before described, once delivered, or for an annual payment in perpetuity either in money or more generally in similar presents. One of the earliest of these agreements was made with the Mississaga tribe on the Grand River in 1784, by which the Crown purchased above 670,000 acres, to be again ceded to the Six Nations on their retirement from the United States at the close of the War of Independence.

These agreements are mostly drawn up in general terms; they do not appear to have been recorded, and some of them are missing. They sometimes contain reservations of a part of the land surrendered for the future occupation of the tribe. In other cases separate agreements for such reservations have been made, or the reservations have been established by their being omitted from the surrender, and in those instances consequently the Indians hold upon their original title of occupancy.

In all these cases and in the grants of purchased lands, which on two or three occasions the Government has made for the settlement of certain tribes, the power of alienation is distinctly withheld from the Indians and reserved to the Crown.

In a few recent instances the Indians have purchased land for themselves with the proceeds of their annuities.

On many occasions large tracts of Indian lands have been surrendered to the Crown in trust, for the purpose of being sold for the benefit of the tribe concerned.

In 1836 Sir Francis Head obtained the unconditional surrender of the Manitoulin and a vast number of other Islands in Lake Huron, and of an extensive territory in Western Canada, without any direct compensation, and he also obtained a surrender of a valuable reserve near Amherstburg upon the condition that the proceeds of one-half were to be applied to the benefit of the tribe claiming it, and those of the other half to the general benefit of the Indians of Upper Canada. But the terms on which these two surrenders were obtained led to much remonstrance and to a representation to the Secretary of State.

The Saugeen Indians have since been compensated by an annuity for the Territory which 10 they surrendered, and no distribution has yet been made of the sales of the reserve at Amherstburgh.

Among the consequences of the peculiar title under which the Indians held their lands, are their exclusion from the political franchise, and their immunity from statutory labor, the exemption of their lands from taxation, from seizure from debt, and the exclusion of white settlers from their reserves.

TENURE OF LAND.

Owing to the peculiar title under which the Indians hold their lands, and their incapacity to alienate them, they continue, as in their uncivilized state, to hold them in common.

Every member has an equal right, with the sanction of the Chiefs, to choose and mark off a plot of land for himself in any unoccupied part of the reserve, and to occupy as much as he can 20 cultivate.

In their wild state they usually cultivate one large field in common, but in most of the settlements in Canada they have advanced beyond this stage, and each individual cultivates his own field or farm. They are never disturbed in the possession of this, and they are generally allowed to dispose of it during their life or by bequest, to any other member of the Tribe. They may also dispose of their improvements in the same manner, and such as are of a movable nature may be transferred to persons not belonging to the Tribe.

In some of the more advanced settlements, as on the Grand River and in the Tyendinaga Reserve, some Indians hold farms of 100 to 150 acres of cleared land, and some have acquired by inheritance or purchase two or three, or even a greater number of farms. The transfer of property 30 is frequent in these settlements.

But this mode of tenure, and the uncertainty of the Title to their lands, has caused great uneasiness among the more enlightened Indians in Upper Canada. They apprehend that as the tide of settlements flows on, and the pressure of the whites to possess their lands increases, they may at some future day be dispossessed or forced to surrender on disadvantageous terms, because they can show no title deeds for their reserves.

With regard to the mode of tenure, experience has taught them that while the lands are held in common and an individual may at any time be deprived of his farm, and be forced to abandon his improvements, perhaps without any compensation, by a decision of the majority of the Tribe to surrender their lands to the Government, there is no real security for property, and no encouragement for 40 industry.

The subject has on several occasions, been brought before the Provincial and Imperial Governments. In 1837, the Rev. Peter Jones, an Indian Missionary of the Methodist Society, and a Chief among the Mississaga Tribe of the River Credit, visited England in order chiefly to call attention to it.

His representation to Lord Glenelg was couched in the following terms :

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"It is the desire of my Tribe to obtain from Her Most Gracious Majesty, the Queen, a written assurance or title deed, securing to them and their posterity, for ever, the lands on which they have commenced improving. So long as they hold no written document, from the British Government, to show that the land is theirs, they fear that the white man may at some future day take their lands away from them; and this apprehension is constantly cherished by observing the policy pursued by the United States Government towards the Indians in that country, in forcing them to leave their territories and the bones of their Fathers; and I regret to say that this fear acts as a powerful drawback upon the industry and improvement of our Indian Tribes."

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10 Sir Francis Head, who was then Lieutenant-Governor of Upper Canada, objected strongly to the request being granted, on the ground that it was not made by the Indians themselves, but by their Methodist Missionaries, with the design of turning the concession to their own advantage.

This apprehension appears to have been groundless, and Lord Glenelg took the same view of it, for he suggested that although it would not be advisable to deliver into the hands of the Indians the title deeds of their property, those deeds should be drawn up in writing and duly recorded, and should be open for their inspection, and that "if the Indians, or any individual among them, should at any time desire to sell or exchange their land, the Government would be ready to listen to their applications, and to take such measures as should be most consistent with their welfare and
20 feelings."

In this opinion your Commissioners in a great measure concur. They are convinced that the uncertainty which has prevailed in the minds of the Indians, with regard to the continued possession of their lands, has been one of the greatest drawbacks to their improvement.

Your Commissioners recommend :

1st. That all the title deeds for Indian lands should be recorded in the office of the Provincial Registrar, and be open as any other public documents to inspection.

2nd. That where no title deeds exist, they should be supplied and recorded in the same manner.

3rd. That these title deeds, so recorded, should be considered by the Government as equally
30 binding with any other similar document, and should preclude all power of resumption, without the consent of the Indians concerned.

4th. That when the reserve has not been surveyed, or any doubt exists as to its proper limits, steps should be forthwith taken to supply the information, which ought to be kept in the Indian Office for inspection, with diagrams of the reserves.

Such diagrams, on a small scale, of the reserves in Upper Canada are prefixed to Mr. Justice Macaulay's Report, but those for Lower Canada are wanting. Some expense will attend a survey and a definition of the boundaries, but the measure will be productive of eventual economy, and will facilitate the endeavours of the Government to prevent intrusion upon the Indian lands.

5th. That the several tribes be encouraged to divide their reserves among themselves, and to
40 appropriate a portion, not exceeding 100 acres, to each family or member, surrendering to the Government the remainder in trust to be sold for their benefit.

6th. That in all instances of such division, or of individual members of a tribe adopting a fixed location with the consent of the tribe, a limited title deed be granted, securing to the holder and his heirs the possession of such separate portion of the reserve, with the power of transferring or devising the same to any member of his family or of his tribe, but not to a white man, and

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protecting him in its possession in the event of any surrender of the reserve by the rest. That upon the issue of such a deed a gratuity in agricultural implements, stock, furniture, or other useful articles, be given in commutation of all further claim to presents.

7th. That the Government should be prepared to entertain any application for the exchange or sale of these licenses in favour of any Indian belonging to another tribe, but not in favour of a white.

8th. That upon a report from an officer of the Department that an Indian is qualified by education, knowledge of the arts and customs of civilized life, and habits of industry and prudence to protect his own interests, and to maintain himself as an independent member of the general community, the Government shall be prepared to grant him a patent for the land in his actual cultivation or occupation, and for as much more as he may be entitled to upon an equitable division of the reserve of his tribe, not exceeding in any instance 200 acres. That upon the issue of this patent all further claims to share in the presents be relinquished; but that any title to share in an annuity or other property of the tribe be retained.

This proposition is founded upon the conviction that it is desirable to release the Indians from their present state of tutelage as soon as they are competent to take care of themselves; that to postpone this emancipation until the whole body is advanced to that stage would be the most effectual way of retarding that desirable event; and that the example and encouragement held out by the admission of their more enlightened members to all the privileges of a citizen will be the highest incentive to exertion.

3. MANAGEMENT OF THE INDIAN LANDS.

In Lower Canada no surrenders of land have been made to the Crown by the Indians, and consequently the Government is no further concerned in their affairs than to appoint or sanction the appointment of agents, to receive the rents and seigniorial payments on account of their lands, and the tenements upon them, and also to receive and examine the accounts rendered by the agents, and to control their proceedings.

There are three agencies for the tribes: at St. Regis, St. Francis and Caughnawaga.

In Upper Canada the Crown is the agent in trust for the sale of various tracts of lands surrendered by several tribes, for the purpose of being sold for their benefit.

The following is a list of these surrenders as far as they can be ascertained:

DATE OF SURRENDER.	TRIBE.	NO. OF ACRES.	WHERE SITUATED.
January 15, 1798.....	Six Nations.....	352,707	Grand River.
April 19, 1830.....	do	807	do
do 1831.....	do	20,670	do
February 8, 1834.....	do	50,212	do
do 20, 1841.....	do	220,000	do
December 3, 1835.....	Mohawks of Bay Quinté	27,857	Tyendingaga.
April 15, 1843.....	do do	Not stated.	do
February 2, 1836.....	Wyandotts and Hurons.....	14,500	Anderdon.
do 28, 1820.....	Mississagas of the Credit.....	7,000	Trafalgar.
do 18, 1833.....	Mississagas of Alnwick.....	4,700	Big Island.
May 25, 1836.....	do do	2,700	Bedford.
January 15, 1838.....	do do	Not stated.	Thurflow.
February 4, 1834.....	Chippewas of the Thames.....	15,300	Caradoc.
November 26, 1836.....	Chippewas of Rama, Beau Soleil and Snake Island	9,600	Orillia and Medonte.

The management of the sales is conducted by the Commissioners of Crown Lands.

Copy
Plan.

Shewing the different SURRENDERS made by the INDIANS in UPPER CANADA to the CROWN

Department of Crown Lands,
Survey Branch,
Toronto, Canada, September 24,
1886.

I certify this map to be a true copy of a map
appended to a Report on the Affairs of the Indians
in Canada, by Messrs Rawson, Davidson, and Hepburn,
dated, January 22nd 1844; bound therewith, and
facing the last page thereof, in Appendix I, to the
Journals of the Legislative Assembly of the Province
of Canada, 1844.

George Blairpatrick
Provincial Land Surveyor &
Chief Clerk -



References,

- A. Surrendered by the Chippawas, on the 19th May 1795 for £100. 28,000 acres
- B. Surrendered by the Chippawas, on the 17th Nov^r 1815 for £4,000. 250,000 acres.
- C. Surrendered by the Mississagas on the 1st Aug^r 1805 for "good & valuable considerations" given on 23rd Sept^r 1787
- D. Surrendered by the Mississagas, on the 6th Sept^r 1806 for £1000. 85,000 acres

□ Indian Reserves.

The lands on being surrendered are surveyed and opened for sale in the same manner as Crown Lands, except that as in the case of the Clergy Reserve Lands, of which the sale is also conducted by the Commissioners of Crown Lands, the Government conceiving itself bound, as Trustee, to obtain the highest amount for the land without reference to the general public interests, has authorized a system of receiving payment in annual instalments, instead of requiring the immediate payment of the whole sum.

PROTECTION OF THE INDIAN RESERVES.

The incapacity of the wild and untutored Indians to protect their lands and other property from the encroachments and frauds of the whites, first led the Crown to assume the office of their Guardian in this respect, and the Indians have become accustomed to depend entirely upon the protection and interference of the Government, and to neglect those precautions which their own increasing intelligence enables them to adopt.

As the Crown retains the fee simple of all the lands occupied by the Indians in the Upper Province, all persons intruding upon any portion of them without leave are trespassers, and may be ejected.

In Lower Canada the tenure of the Indian Reserves being different, a special enactment was necessary to restrain persons from intruding upon them, and such a law was accordingly passed in 1777.

But the extent and isolation of the Indian Lands in Upper Canada, the impossibility of exercising a surveillance over those vast tracts, and still more, the uncontrollable force of those natural laws of society to which even Governments must bend, have prevented the efficient protection of the Indian Reserves, any more than the Crown and Clergy Lands under similar circumstances.

These reserves contain some of the finest and most valuable land in the Province. Hence they have attracted the attention of the indigent emigrant, and the fraudulent speculator, who, either in ignorance or with a view to future gains, have settled upon portions of them, sometimes without leave or observation, sometimes against the will of the Indians, but more frequently under colour of titles obtained from individual Indians.

4. ANNUITIES.

The origin and nature of the Annuities having been already described, it is only necessary here to repeat that they are payments made by the Government to certain tribes in Upper Canada for lands surrendered by them to the Crown; a list of them is given in the Appendix No. 67. The terms of the deeds by which they are secured vary, but in general they engage the Government to pay the full amount either in goods at the Montreal prices, or in money. In some they provide for the payment of £2 10s. to each individual, and in one, express stipulations are made for the reduction of the annuity, in the event of a diminution of the number of the tribe. An abstract of the terms of each deed will be found in the Appendix No. 68.

Previously to the year 1829, the custom was to pay these annuities in goods of the same description as the annual presents, by which practice the Indians, having already received an adequate supply of clothing, had a strong inducement to dispose of the remainder for any object of more immediate want or attraction; among which liquor ranked foremost.

In 1829, Sir John Colborne, being desirous of checking the evils of this system, and of promoting the settlement and civilization of the Indians, obtained permission from the Secretary of State to apply the annuities towards building houses and purchasing agricultural implements and stock for such members of the several tribes, interested in the payments, as were disposed to settle in the Province; and from that period the issue of goods in payment of the annuities ceased.

The change seems at first to have been unwillingly adopted by the tribes, but it is now universally approved of. Within two or three years the settlements at Coldwater, The Narrows, St. Clair and Munstowen were established by means of these funds, and subsequently several other settlements have been formed or enlarged.

5. INDIAN DEPARTMENT.

As the early dealings of the Government with the Indians had almost exclusive reference to the cultivation of their friendship and alliance in times of war, the constitution of the Indian Department was, until within a few years, entirely of a military character. For a long time it was under the control of the Commander of the Forces. The Superintendents had military rank, were entitled to wear a uniform, and received the same rates of pay and allowances, during the war, as the officers of corresponding rank in the regular army, which, up to the year 1832, were paid from the military chest, provided for out of the army extraordinaries. Their duties were confined "principally to the conveying of the presents to the Indians and attending at the different stations where they assembled to receive them," with as much military pomp and display as the occasion would admit. 10

In 1830, Sir George Murray put an end to this system. He separated the Department into two branches for the two sections of the Province, and placed them under the control of the Civil Government in each. He adopted as the policy of the Government, "the settled purpose of gradually reclaiming the Indians from a state of barbarism and of introducing amongst them the industrious and peaceful habits of civilized life."

MISCELLANEOUS.

20

Your Commissioners have, in the foregoing part of their report, confined themselves to general views with regard to the future management of the Indians. They have now to notice some special circumstances relating to particular tribes which have been brought before them or the Government as matters of complaint or suggestion.

ALGONQUINS, NIPISSINGS AND IROQUOIS AT THE LAKE OF THE TWO MOUNTAINS.

The claims of these Indians have been repeatedly before the Government, and their present distressed condition calls for its humane interposition.

The nature of their claim, founded on the former occupation and gradual dispossession of the territory on the banks and in the islands of the Ottawa, upon the terms of the proclamation of 1763, and upon the fact of their having (although illegally) received rents for lands occupied by settlers in those islands, gives them a title to the favourable consideration of the Government. 30

The Commissioners find it recorded in the report, last quoted, which was confirmed by another Committee in a report dated 17th June, 1839, that the claims of these Indians, were, in their opinion, "to be resolved into an equitable right, to be compensated for the loss of lands from which, in former times, they derived their subsistence, and which may have been taken by Government for the purposes of settlement, and that the measure of such compensation should be to place and maintain them in a condition of at least equal advantage with that which they would have enjoyed in their former state. They therefore recommend that a sufficient tract of land should be set apart in the rear of the present range of Townships on the Ottawa River, and that such of them as may, from time to time, be disposed to settle on land should be located there; and that both they and the rest of these tribes should continue to receive such support, encouragement, and assistance as may supply the place of their former means of subsistence, and at the same time prepare and lead them to a state of independence of further aid." 40

Your Commissioners having this latter end chiefly in view as the fruit of the civilization and social elevation of the Indians, and considering the difficulties which would exist in bringing to

bear upon Indians, if located as proposed in the rear of the Ottawa Townships, the means of improvement which are recommended for the rest of their race cannot recommend that this part of the suggestion be carried into effect. Neither do they conceive that it would tend to the interest of these Indians to grant the prayer of their petition, and to settle them upon the Isle aux Allumettes as it appears that a large white population already occupy that Island, a number amounting to 800 souls having petitioned for titles to lands therein, whom it would, at the present day, be impossible to dispossess.

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They would, therefore, suggest that steps be taken to induce these tribes to remove either to the Manitoulin Island or to some other settlement of Indians, in the Upper Province, in which the proposed institutions and arrangements for promoting the civilization of their brethren shall hereafter be established, and that in the meantime temporary assistance, not to exceed the amount granted to their brethren in Upper Canada under similar circumstances, viz.: £2 10s. per head annually, be afforded to them in order to remove the most pressing of their wants.

That considering the value of the lands sold on the banks of the Ottawa, and the revenue derived from the cutting of timber on the ancient hunting grounds of these tribes, which has led to the destruction of their means of subsistence, this payment becomes an equitable charge upon the revenue of the Crown Lands.

SIX NATIONS INDIANS OF THE GRAND RIVER.

In the early part of last year a deputation of their chiefs waited on your commissioners, for the purpose of laying before them the state of their affairs, and of expressing their wishes respecting them.

Your Commissioners will first refer to the substance of the statements and requests of these Indians, and afterwards submit their own views respecting them.

The subject which they principally desired to be considered was the surrender which they had made in 1841 of the remaining portion of their lands on the Grand River, by which they were limited to a reserve of only 20,000 acres for their own occupation. This quantity they stated was very insufficient for their wants, and they requested that at least 50,000 acres might be reserved for them. They desired that the reserve should be on the south of the river, to which side they wished to remove. They also urged attention to be given to the state of their money affairs, and particularly with regard to the investment of their funds in the stock of the Grand River Navigation Company, respecting which they stated they were neither consulted nor informed, and they expressed a wish that Government would purchase it from them.

They next stated their objection to the annual payment of £150 from their funds now made to the Chief Superintendent; and finally they requested that some person might be appointed to reside amongst them and manage their local affairs. Upon these several matters your Commissioners have to report as follows:—

1st. With respect to the Reserve for their occupation.

Your Commissioners having in view the future reliance of these Indians on their own resources which must chiefly be derived from the cultivation of their land, consider that 20,000 acres is too limited a quantity, regard being had to their present number, which, according to the last return, amounts to 2,223, and they recommend that the Reserve should be increased to at least an average of 100 acres to a family, and that in compliance with the wishes of the Indians, a compact block to that extent should, if possible, be marked out on the south side of the Grand River, which may supply them with sufficient good land for agricultural, and of timber for building, farming and domestic purposes.

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That this block should be surveyed and subdivided into parcels of 100 acres each. That one parcel be set apart for the head of each family, to be drawn for by lots, respect being had in making the survey to the claims of actual occupants.

THE HURONS AND WYANDOTTES OF AMHERSTBURGH.

The land originally reserved for the occupation of these tribes, comprising about 23,000 acres, is situated in the Township of Anderdon, formerly Malden.

In August, 1835, they surrendered it, in trust, to the Government, in order that a portion of it might be sold for their benefit. Subsequently, in February, 1836, Sir F. Head obtained from them another surrender of the same land, but upon different terms to the former, viz.: that one-third only should be sold for their sole benefit; another third was to be sold, and form a fund to be at the disposal of the Government to be applied for the benefit of the Indians generally; and the remaining third was to be kept for their own occupation. 10

The terms of this surrender were communicated by Sir F. Head to the Secretary of State, in November, 1836, by whom it was sanctioned in a despatch dated 20th January, 1837. "I am now to express to you His Majesty's approbation of the further engagements which you have entered into with the Huron and Moravian Indians."

Recently, however, these tribes have remonstrated against the terms of this surrender on the ground of its injustice, but the absence of any of the records relating to the particulars of the transaction prevents your Commissioners from offering any decided opinion upon their complaint.

That there were peculiar circumstances connected with the case would appear from the fact that the second surrender was obtained within six months after the execution of the first; and also, that the right of the Hurons and Wyandottes to the exclusive proprietorship of the land is not clearly established. Your Commissioners likewise would not omit to notice that they find a memorandum in a book in the office of the Surveyor-General stating that this land was surrendered to the Crown in the year 1786. 20

SAUGEEN INDIANS.

The conditions upon which the lands surrendered by these Indians to Sir F. Head in August, 1836, containing upwards of 1,500,000 acres were originally very indefinite, the agreement being that "proper houses should be built for them, and proper assistance given to enable them to become civilized and to cultivate land." 30

Subsequently, however, upon a report of the Executive Council recommending in lieu of the foregoing arrangements that a fixed annuity should be paid to the tribes, which was approved by Sir George Arthur, and submitted by him to the consideration of the Secretary of State, orders were given by Lord John Russell in a despatch dated 19th September, 1840, that the tribe should in future receive the accustomed annuity of £2 10s. per head. "The annuity not to increase with the tribe, but to decrease with its diminution in proportion to the lessening of its numbers."

MORAVIANS OF THE THAMES.

In the year 1836 Sir F. Head, then Lieutenant-Governor of Upper Canada, obtained from these Indians a surrender of about 25,000 acres of their land situated in the Township of Zone, western district, for an annuity of £150. This proceeding was remonstrated against by the Directing Board of the Moravian Society, the land being, by Orders-in-Council of the 10th July, 1793, "reserved forever to the Society in trust, for the sole use of their Indian converts." 40

Although the Society complained of the manner in which the surrender was obtained, they nevertheless acquiesced in the arrangement, for it appears that their Secretary, the Rev. P. Latrobe, in addressing Lord Glenelg on the subject, on 29th September, 1837, wrote as follows: "At the

same time that I thus freely express to your Lordship the opinion of the Directors of the Brethren's Missions, that the late proceedings of Sir F. Head have been irregular in their nature, and hurtful in their tendency, I am instructed to intimate on their behalf, an entire co-incidence in the views of the missionaries at New Fairfield and the Superior Board at Bethlehem, to the effect that since a contract has been actually concluded, and the formal assent of the Indian congregation obtained, it would be inexpedient to take any steps which may lead to the annulling of it. The Directors of the Brethren's Missions are satisfied to let the agreement which has been made remain substantially what it is." * * * *

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10 By the Proclamation of 1763, the Crown reserved to itself the exclusive privilege of treating with the Indians for the sale of their lands; and in cases where the Indians have not sold them, they have surrendered them to the Crown in *trust*, to be disposed of for their benefit. * * * *

All which is respectfully submitted.

RAWSON W. RAWSON.
JOHN DAVIDSON.
WILLIAM HEPBURN.

Kingston, 22nd January, 1844.

APPENDIX No. 2.—(A).

20 *Questions put by the Commissioners to the Resident Superintendent and other persons employed in the Indian Department, in Canada.*

(1) How long have you had charge of the Indians under your superintendence ?

(2) Are they improved during that time in their moral and religious character, and in habits of industry ?

(3) Where and in what manner are they settled, whether in villages or upon small farms ?

(4) What is the size and extent of each village, viz.: number of houses, barns, etc., and of what material built ?

(5) Do any of the Indians under your superintendence from choice live in wigwams ? If so state the number.

30 (6) Is the land cultivated by the Indians under your superintendence, and subdivided into regular blocks or parcels, or does each Indian select the spot he wishes to cultivate according to his taste, or is the land selected by the Chiefs for him ?

(7) Will you state as nearly as practicable the number of acres under cultivation in your own particular settlements, and also the number of acres cultivated by each family ? In each case in which the family has no land under cultivation, how does it procure the means of subsistence ?

(8) When an Indian is once in possession of a piece of land, is he secure from the intrusion of other Indians, also has he the power, by usage, of transmitting it to his heirs, or conveying his interest in the property to other members of the tribe, or to other parties ?

(9) Do you find them improved in their mode of agriculture to any great degree since you first had the charge of them ? To what extent do they cultivate their land in common ?

40 (10) Can you state the number who have commenced to till the land during that period ? What instruments did they use when you first had charge of them, and what do they now use ?

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(11) What quantity of agricultural implements do they possess, and are they careful of them? Do they thoroughly understand the use of them?

(12) What stock do they possess, and do they pay proper attention to it during the winter season?

(13) What mode of agriculture do they generally pursue? If it differs from that of the white settlers, state in what the difference consists.

[And so on, up to question 53.]

[Such of the answers in the following Appendices as are numbered "8." have reference to the 8th of the above-mentioned questions.]

APPENDIX No. 3.

10

Evidence of the Secretary of Indian Affairs, (respecting the Iroquois of Caughnawaga.)

8th. When an Indian is once in possession of a piece of land, is he secure from the intrusion of other Indians? also, has he the power, by usage, of transmitting it to his heirs, or conveying his interest in the property to other members of the tribe, or to other parties? He is perfectly secure from intrusion, and he has the power of transmitting the land to his heirs, or to any other member of the tribe, but not to any other parties.

APPENDIX No. 4.

Evidence of the Rev. J. Marcoux, Missionary at Caughnawaga, having reference to the progress of that Settlement.

8. He is safe from all intrusion on the land which he has cleared of stones, or bought or received by inheritance. He can sell it as well as purchase it, but to the Indians or half-breeds (Metis) only, and not to the whites, who have no right to hold property on the Indian reserves in Lower Canada.

APPENDIX No. 5.

Answers from the Resident Superintendent of the Indian Department at St. Regis, to certain Questions from the Commissioners for enquiring into the affairs of the Indians in Canada, forwarded to the Secretary of the Indian Department from Kingston, the 2nd December. 1842.

8. When an Indian is once in possession of a piece of land, is he secure from the intrusion of other Indians; also, has he power, by usage, of transmitting it to his heirs, or conveying his interest in the property to other members of the tribe, or other parties? An Indian, whether man or woman, once in possession, by purchase or otherwise, of a piece of land within the tract held and owned by the tribe in common, is, by usage, protected against intrusion of any other person or party, and has the right of transmitting his or her interest therein to their heirs, or of conveying it to any other Indian of the tribe, but to no other persons. The chiefs always reserve to themselves the right to sell or lease any land that is not required for the cultivation of the tribe.

APPENDIX No. 6.

Evidence of the Rev. J. X. Marcoux, Missionary, having reference to the Iroquois, of St. Regis.

8. When an Indian is in possession of a piece of land he holds it as proprietor; no other Indian can take it from him. He may by custom transfer it to his heirs, or sell it to any member of the tribe, but not to the whites.

APPENDIX No. 7.

Evidence of Mr. Superintendent Hughes, having reference to the Algonquins, Nipissings, and Iroquois of the Lake of the Two Mountains; also, to the Abenquois, of St. Francis.

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8. When an Indian is once in possession of a piece of land is he secure from the intrusion of other Indians; also, has he the power, by usage, of transmitting it to his heirs, or conveying his interest in the property to other members of the tribe, or to other parties? When an Indian is in possession of a piece of land, or the domain of the Seigniorship appertaining to the tribe in common, at St. Regis as well as at St. Francis, although he has no title deeds to said piece of land, by usage his heirs invariably inherit it. If no heirs, he may leave or give it to whom he pleases, or sell it to any member of the tribe, but to no whites or strangers. The Iroquois at the Lake of the Two Mountains receive as much land as they can cultivate (from the missionaries stationed there, representatives of the Seminary at Montreal), for which they pay no rent. They receive title deeds to said property, and have the power, if no heirs, to leave or sell it to whom they please, provided it be a member of the tribe, and of the mission, but to no strangers or whites.

APPENDIX No. 9.

Evidence of Mr. Niverville, formerly Interpreter of the Indian Department, having reference to the Abenquois of Bécancour, Algonquins of Three Rivers, Têtes de Boule of the River St. Maurice.

8th. No Indian disturbs his neighbour in the possession or enjoyment of the piece of land chosen by him; he can transfer it to whomsoever he wishes, provided it be to one belonging to the tribe, but it is almost always the direct heirs who succeed to the property or enjoyment.

APPENDIX No. 10.

Evidence of the Rev. L. Fortier, Missionary, having reference to the Hurons of Lorette.

8th. When an Indian is in possession of a piece of land no one can take it from him; he can leave it to his children, or sell it to a member of the tribe.

APPENDIX No. 12.

Evidence of Major Plenderleath Christie, respecting Schools for the Indians.

CHRISTIEVILLE, near St. Johns,

26th December, 1842.

30 SIR,—It may not be generally known that at the capitulation of this Province, there was a special article concerning the Indians, whom the French Commander wished to retain under Popish bondage, but the British General wisely refused to accede to it. If I can lay my hand on it I will transcribe the article.

40 Article 40. "The savages, or Indian allies of His Most Christian Majesty, shall be maintained in the lands they inhabit, if they choose to reside there; they shall not be molested on any pretence whatever for having carried arms, and served His Most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their Missionaries. The actual Vicars General, and the Bishop, when the Episcopal See shall be filled, shall have leave to send them new Missionaries when they shall judge it necessary. Granted, except the last article, which has been already refused."

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Extracts from evidence of Mr. Robert McNab, formerly of the Indian Department (having reference to the tribes in Canada East).

From Memorandum showing the present condition of the Indians of Canada East.

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4th. The Iriquois of Caughnawaga, opposite Lachine, near Montreal. The village contains a population of about 1,000 souls, descended from the Mohawk tribe originally settled in the then Province, now State of New York, and emigrated to this country upwards of 200 years ago, and settled at La Prairie, about nine miles below the present village. They subsequently had given to them, by Letters Patent from Louis XIV., in 1680, the Seignior of Sault St. Louis, which they still possess; it contained upwards of 30,000 acres, about 15,000 conceded on the feudal tenure, 10 reserving for themselves about 20,000 acres of cleared and wood land; the soil is of first quality, inferior to none in Eastern Canada, rich in valuable timber of various kinds, such as oak, elm, pine, etc. A considerable portion of the reserve is considered by the Indians as barren, when in reality it is quite the reverse, being exceedingly valuable, composed of limestone of superior quality, covering several miles in extent, and might, by proper management, be turned to good account, by leasing to private individuals the quarries which are now open.

6th. The Iroquois of the Village of St. Regis, at the upper extremity of Canada East, on the boundary line dividing Canada from the State of New York. The village population is about 400 souls, descendants of the Iroquois of Caughnawaga, and located at St. Regis about 80 or 90 years ago, and appropriated to themselves large tracts of main land and islands on both sides of 20 the St. Lawrence, embracing from 80,000 to 100,000 acres, but hold no legal title. A considerable portion has been leased out, affording an annual rent, I understand, of about £700; their business is managed by an agent, appointed by Government. Notwithstanding the immense quantity of land under their control, and large amount of revenue, they are exceedingly poor, from what cause I am not prepared to say. The situation of this tribe, particularly, should be closely inquired into. Their Caughnawaga kindred have not half the quantity of land or amount of revenue, with nearly treble the population, yet are far more comfortable.

APPENDIX No. 16.

Opinions of the Chief Superintendent, S. P. Jarvis, with respect to the improvement of the condition of the Indians, and their future management.

30

MONDAY, 30th January, 1843.

GENTLEMEN,— . . . In the month of April, 1841, I had the honour to call the attention of His Excellency, Lord Sydenham, then Governor-General, to this subject, by my letter, dated 17th of that month, directed to His Secretary, a copy of which is also hereto annexed. In answer to this communication I obtained the permission of His Excellency the Governor-General, to have the Grand River Tract surveyed and valued in accordance with the views contained in the different Reports above referred to, with the object of increasing the Indian funds. This survey has accordingly taken place, and the lands are now being valued; thus the preliminary steps necessary to increase the revenue of the Six Nations of the Grand River have been taken. The same steps I consider absolutely necessary in all the other possessions of the Indians in the settled parts of the Province, 40 as essential to the carrying out the views which I entertained in relation to the best means of advancing the cause of civilization, and their moral, religious and political improvement, the details of which after giving synopsis of their different Estates, I shall proceed to explain.

The Estate belonging to the Mohawks of the Bay of Quinté, consists of about 92,700 acres, their population of about 354 souls; of this estate, after deducting sufficient for the occupation of

the members of the Tribe, at least 60,000 acres might be disposed of, equal in value to £35,000, or to £2,100 per annum; their annuity amounts to £450 per annum, making in this manner their available funds £2,550 per annum.

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The Estate of the Mississagas of the Bay of Quinté, consists of about 8,000 acres, the whole of which, as this tribe has removed to reside at Alnwick, in the Newcastle District, might in like manner be made available, equal in value to about £6,500, or to £390 per annum, to which adding the annuity, £642 10s., makes their available estate £1,032 10s. per annum, to be applied for the benefit of the tribe consisting of about 233 souls.

10 The Estate of the Mississagas of the Rice and Mud Lakes, consists of 3,120 acres, the whole of which should be reserved for their occupation. Their annuity amounts to £740 per annum, for the benefit of the tribe, consisting of a population of about 320 souls.

The Estate of the Mississagas of the River Credit consists of 3,200 acres, at the mouth of the River Credit, where they now reside, the whole of which, as this tribe are desirous of removing to Munsee Town, on the River Thames, might be disposed of for their benefit, equal in value to about £17,000 or to £1,020 per annum. They have also 6,450 acres already surrendered for sale, for the proceeds of which references must be made to the Crown Lands Office; but averaging, at the lowest, at 12s. 6d. per acre, is equal to £4,031, or £241 16s. per annum, which, added to their annuity of £523 10s., makes their available funds amount to £784 6s., to be applied for the benefit of this tribe, consisting of about 254 souls.

20 The Estate of the Six Nations of the Grand River consists of about 160,000 acres, besides lands remaining ungranted, in the Townships of Dunn, Cayuga and Brantford, and besides 19,000 acres granted to Benjamin Canby, to which I shall have occasion presently to refer. Of this, independent of the lands in the Townships, about 110,000 acres might be disposed of, equal in value to about £150,000; or, including the lands in the above Townships, their estate in lands, immediately available, independent of the grant to Benjamin Canby, may, at the lowest calculation, be estimated at £200,000, equal to £12,000 per annum. . . . The population consists of about 2,214 souls.

30 The Estate of the Moravians on the River Thames, consists of about 51,160 acres. Of this, about 30,000 might, in like manner, be disposed of, equal in value to about £25,000, or to £1,500 per annum; add to this their annuity of £150 per annum, makes their available funds £1,650 per annum, to be applied for the benefit of a tribe consisting of about 154 souls. . . .

The Estate of the Chippawas of the River Thames, consists of about 15,360 acres . . . The population consists of about 385 souls.

The Estate of the Chippawas of Chenail Ecarté and St. Clair, consists of about 17,950 acres, independent of Walpole Island, unsurveyed, but containing about 10,000 acres, specially reserved for Indian occupation. Of this they might, in like manner, dispose of at least 13,350 acres, equal to about £12,500 or to £720 per annum; add to this their annuity, amounting to £1,100 per annum, makes their available funds equal to £1,820 per annum, to be applied for the benefit of a tribe consisting of about 600 souls. . . .

40 The Estate of the Saugeens consists of about 400,000 acres. This is an unsettled part of the country, situated on Lake Huron, north of Goderich, from about sixty to ninety miles. At present, therefore, it is useless to reserve any portion for sale or lease. Their annuity, however, amounts to £1,200 per annum, for the benefit of a tribe consisting of about 520 souls. . . .

The Estate of the Wyandott and Huron Tribes, situated at Anderdon, consists of about 22,390 acres. Of this, about 13,000 could be disposed of in like manner, equal to about £10,000, or to £600 per annum. This tribe has no annuity. Their population consists of about 230 souls.

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The Estate of the Chippawas of Lake Huron and Simcoe, consists of about 20,000 acres. Of this about 12,800 acres might be disposed of for their benefit, equal to £8,000 or to £480 per annum; add to this their annuity, of £1,200 per annum, makes their available estates equal to £1,680 per annum, to be applied for the benefit of this tribe, consisting of about 480 souls.

Independent of all this property, the Manitoulin Island consists of about acres. The Christian Island, in Lake Huron, is now estimated at about 10,000 acres, which have been set apart for the occupation of all Indians who wish to reside there. . . .

The greater part of this property which I have proposed should be thus disposed of, it is to be borne in mind, that it is situated in the centre of rapidly increasing sections of the country, and therefore the more easily made available. Public policy as well as regard for the interest of the 10 Indians, requires that these valuable tracts should not be suffered to remain waste and uncultivated, in the heart of thriving settlements; past experience sufficiently shows the absolute necessity of the Government, in tender regard to the Indians themselves, taking upon itself the disposal of their lands for them; nothing else, I am satisfied, can prevent the intrusion and plunder of white settlers. I have no hesitation in saying, that every individual white man, from the merchant to the labourer, who, residing in the neighbourhood of the Indians, advises otherwise, does so from interested motives. In Indian property, one and all are land jobbers and speculators. Whether it be land, money, or even presents that the Indians possess, they soon find their way into the possession of his white neighbour, without any consideration. . . .

The Government are the undoubted Guardians of the Indians; they should have the sole and total control over all their affairs; with them rests the onus of management and responsibility for 20 their welfare, the judicious disposal of their funds, the means of promoting their temporal happiness and their spiritual and moral instruction. Under this view of the case, I consider it worse than useless to consult the Indians upon the mode of applying their funds, for, in truth, their remonstrances and complaints are, for the most part, the emanations of the white speculator, perpetually instilling into their minds distrust of those who have their real interest at heart, and who desire to promote their true happiness. . . .

The vast tracts of land which have been ceded for trifling consideration, the injury which the Indians have sustained from careless and improvident grants of their property, the unprofitable investments which have in some cases been made of their capital, the frauds which have been too long suffered to be committed upon them by the white men, notwithstanding their services and 30 attachment to the Crown, and the still surviving confidence which they repose in Her Majesty's Government, give them peculiar claims upon its benevolent consideration, and demand a timely and vigorous interference to be made to protect the residue, to husband their resources and secure a proper disposition of them, in such manner as to give hopes at length of their more rapid improvement. . . .

I have the honour to be, Gentlemen,
Your most obedient servant,
SAMUEL P. JARVIS,
Chief Supt. Indian Affairs.

To the Commissioners on Indian Affairs.

40

INDIAN OFFICE,
TORONTO, 20th September, 1838.

SIR,— . . . The subject of Indian titles referred to in Lord Glenelg's despatch of the 28th March, has been repeatedly brought under the consideration of the Provincial Government.

His Lordship appears strongly impressed with the idea that great uneasiness exists among the Indians in regard to their lands. This opinion I do not hesitate to say is erroneous. The

applications of the Indians for title deeds for their lands did not originate with them, but with persons, who I fear, have ulterior objects in view, so soon as their point can be accomplished . . .

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The project of obtaining alienable titles to the large reservations, made for the exclusive benefits of the Indians and their posterity, by the British Government, if it did not originate with the Methodist Missionaries in Upper Canada, has for some years past been pressed upon Government by them, with a degree of steady perseverance not easy to account for. It is a claim which the Indians themselves, I believe, never thought of making, until persuaded and urged to do so by the Missionaries. . . .

10 The mode of conveying lands to a tribe of Indians and their posterity in perpetuity, so as to invest them with the right of soil, but at the same time to exempt them from the liabilities to which lands held by the white population, in free and common soccage, are subjected, I am unable to point out. It was never, I believe, intended by Government that the Indians and their posterity, for the use of whom the several reservations were set apart, should have the power of alienating any part of them (without the express consent and concurrence of the Government). Even when particular lots of lands have been purchased for their use, the titles have always been made to Trustees, for the express purpose of guarding against the possibility of the Indians being defrauded by their white neighbors.

These reservations being made for the benefit of them and their posterity, no individual Indian has more than a life estate, and most assuredly nothing more was ever intended by Government.

20 If a greater estate should now be erected, by the mode suggested by His Lordship, the lands as a legal consequence would be liable to their debts, and the improvidence of a few thoughtless individuals might occasion to a tribe the loss of a whole tract.

Another objection to an Indian Reservation passing into patent under any form or condition, is that the land would immediately become subject to the same taxes, rates, and assessments, as the other grants within the Province, and if not punctually paid, would of necessity be liable to forfeiture and sale. Many of the reservations are extensive, and very small proportion of any of them yield a profit. The taxes, nevertheless, would be exacted for every acre, whether profitable or otherwise, and the amount, I am sure, would not be paid by the respective tribes before resorting to the sale of a part of the estate. . . .

30 I am decidedly of opinion that no grant or deed of these lands should pass the Great Seal, and that they should remain in the Crown as heretofore. But I am of opinion that a diagram, accompanied by a correct description of the [metes] and bounds of each Indian Reservation, designating the tribe to which each belongs, should be prepared by the Surveyor-General, and deposited in the office of the Secretary and Registrar of the Province, there to remain as a matter of record and reference, accompanied with a formal declaration of the Governor in Council, that such lands are held by the Government for the express use and enjoyment of the Indians for ever, and are never to be alienated or appropriated to any other purpose, without the assent of the tribe, given in a regular Council; and a copy of the diagram, and of this solemn declaration, should be given to principal chiefs of the tribes. And considering what has always been the conduct of the British
40 Government to the Indians, if this measure be not satisfactory to the Indians and their advisers, I cannot but think that it must be because there is some other object in view beyond their security and welfare. . . .

I have, etc.,

SAMUEL P. JARVIS,

Chief Supt. Indian Affairs.

The Hon. John Macaulay.

SIR,— . . . The Mississagas of the River Credit in 1818, ceded to the Crown a tract of country comprising 648,000 acres, for the sum of £522 10s. currency, per annum. This cession embraces the principal settlements which now form the Home and Gore Districts.

In 1822, 2,748,000 acres, in the Newcastle, Midland, and Johnstown Districts, were ceded to the Crown by another band of Mississagas, for an annuity of £530, currency.

In 1827, 2,200,000 acres in the London and Western Districts, were, in like manner, ceded for annuity of £1,000, currency.

And, again, in 1836, a tract of country adjoining the lands granted to the Canada Company, 10 on Lake Huron, supposed to contain nearly a million of acres, was surrendered to the Crown for no other consideration than a gratuity of about £100, and a promise from the Lieutenant-Governor of Upper Canada, to extend to the tribe (which made the surrender), the fostering care and protection of Her Majesty's Government.

These and other tracts, which now form the Province of Upper Canada, and from which nearly half a million of white inhabitants derive their support, have been thus acquired by the Crown from this weak and unsuspecting people.

It is true that they generally reserve to themselves small blocks, in order that they might not be entirely without a home; but in making these reservations for themselves, their usual improvidence and shortsightedness were but too conspicuous, for they do not seem to have contemplated 20 that the game upon which they principally relied for support, and with which the forest then abounded, would be destroyed or driven away to more distant parts, as the land which they ceded became cultivated and thickly inhabited by a white population. Had they looked forward to such a result, it is reasonable to suppose that they would have stipulated for an equivalent commensurate with advantages now and forever gone from them. By entering into treaties with the Aborigines of the country for the purchase of lands, the Government has acknowledged the right of soil to be in them; but I think that it would have better comported with the established character for justice and liberality of the British Government had the agents employed to treat with the Indians, for the surrender of their lands, been instructed to pledge the Government for at least such an equivalent as would be adequate for feeding, clothing, and providing them with religious and moral 30 instruction. . . .

But it is not yet too late to render justice to these unfortunate people. Of the numerous tribes which, little more than half a century ago were in lawful possession of the whole country, which now forms the Province of Upper Canada, scarcely eight thousand souls remain.

The immense tracts, which, in their unbounded confidence in the British Government they have ceded to the Crown, have not yet been entirely disposed of; many thousands of acres, in every district of the Province, remain uncultivated and ungranted; to these, or the value of them, I respectfully maintain, the Indians have an equitable claim.

But setting aside this claim to the ungranted lands within the settled Townships of the Province, the tracts surrendered in 1836, the consideration given for which was merely nominal 40 (indeed so nearly so, as to render it doubtful whether the agreements should be considered valid either in law or equity), I trust the Government will direct these to be appropriated to the establishment of a fund for the general benefit and improvement of the resident tribes, and such others who may hereafter become residents. . . .

I believe it can be made to appear that in no one instance has anything like a fair and reasonable compensation been made by Government for any tract of land ceded by the Indians. . . .

I have, etc.,

SAMUEL P. JARVIS,

Chief S. I. Affairs.

EXECUTIVE COUNCIL CHAMBER.

TORONTO, Tuesday, 12th September, 1839.

*Present :*The Hon. ROBERT BALDWIN SULLIVAN, *Presiding Councillor.*

The Hon. AUGUSTUS BALDWIN.

The Hon. RICHARD ALEXANDER TUCKER.

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To His Excellency SIR GEORGE ARTHUR, K.C.B., Lieutenant-Governor of the Province of Upper Canada, and Major General, commanding Her Majesty's Forces therein, etc., etc., etc.

MAY IT PLEASE YOUR EXCELLENCY,—The Executive Council have considered attentively the
10 claim of John Asten Wilkes, and the accompanying documents.

The petitioner claims, under a lease from an Indian family, who were in possession of a part of the Grand River tract, upon which part the town of Brantford now stands. Mr. Wilkes asserts the right of the Indians to dispose of their lands, and claims that the lease to him should be confirmed by the Government.

Mr. Wilkes asserts that in reliance upon the validity of this title he erected many buildings, and went to great expense in improvement, which has been of great public benefit in increasing the value of the lands in the neighbourhood, and in the forwarding of the town of Brantford.

The town has been since laid out by the Government into streets and lots ; many of the latter have been sold and built upon, some of them within the tract claimed by Mr. Wilkes.

20 This tract consists of 107 acres, the front of which is surveyed into town lots and streets. Only the front of it, however, seems likely to be included in the valuable part of the town.

The Council does not consider it necessary to enter into a discussion as to the right of individual Indians to alienate parts of the grant conceded by General Haldimand to the Six Nations, as this right has been repeatedly denied, and this denial has been confirmed by Her Majesty's Government, specially in the case of Nelson Cozens ; and the Council beg respectfully to refer to the report upon that case, of the 18th August, 1836, and to the despatch of the Right Honourable the Secretary of State for the Colonies, in answer thereto.

30 It is true that, for the purpose of quieting a long-continued possession, His Excellency Sir John Colborne thought fit to recognize certain leases of part of the Indian tract made by Captain Brant, as agent or attorney for the Six Nations, and in case where Indian families had placed white settlers in possession of lands, such persons were considered as having an equitable claim to pre-emption at such a price as would amount to the value of the land without the improvements made by the settler. In this way the interests of the Indians were secured and the white settlers retained the fruits of their industry.

Had Mr. Wilkes happened to have obtained possession of a tract of Indian land otherwise situated, it is probable he would have found no difficulty in procuring the lands by purchase at the ordinary value of farm land in the neighbourhood ; the difficulty in the case arises from the place being favourably situated for a town, which Mr. Wilkes had the sagacity to foresee when he obtained the Indian lease.

40 He accordingly commenced the new village, and justly claims much merit as being the founder of Brantford. The value of the ground was very much increased as a matter of course, and the attention of the Government being thus drawn to the favourable situation of the place, the town was surveyed, and has now become a very flourishing village.

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The Government being in fact trustees for the Indians, could not, with any regard to their interest, recognize a transaction by which a single Indian family assume to make an alienation of the general property of the tribe, so very detrimental to its future interests. Mr. Wilkes' claim, therefore, has never been recognized; he has failed in attempting to establish it by law, and he now, after many years attempting in various ways to procure a recognition of his asserted rights, prefers his present petition.

The Council cannot advise Your Excellency to assent to the prayer of Mr. Wilkes' petition to the extent to which he urges his claim. They are of opinion, however, that his exertions in promoting the interests of Brantford have been meritorious and worthy of favourable consideration.

The Council, therefore, would advise the utmost favour to be shown to Mr. Wilkes consistent with the interest of the Indians. They desire that an actual inspection of the premises should take place by the head of the Indian Department, and that this officer do report the lots occupied by Mr. Wilkes, upon which he has erected buildings, and the land in actual use by him; and that he should point out such lands as might be held as appurtenant to those buildings, where the same are erected upon town lots surveyed; and also such ground as may be conceded to Mr. Wilkes as appurtenant to his mills and other improvements, without interfering materially with the interest of the Indians or the progress of the town, and that he should also fix such a price upon the lots so specified as they would probably have brought at the time the town was first laid out and in the unimproved state of the lands. 10

With this report before them, the Council are of opinion that such lands may be sold to the petitioner at a fair valuation, such as he might have purchased them from the Government at the time when the project of founding a town at Brantford was first entertained by the Government; and beyond this recommendation the Council do not think they can go in justice to the Indians. 20

All which is respectfully submitted.

R. B. SULLIVAN, *P. C.*

I concur in the propriety of making a complete survey of the land, but until that be done, and a full report is before the Government, I should not think it advisable to hold out any kind of expectation to Mr. Wilkes. It may tend to future disappointment.

The survey should be made under the direction of the Superintendent of Indian affairs, care being taken that the Surveyor be not a resident in that part of the country. 30

G. A., *Lieut.-Governor.*

SENECA, 15th January, 1841.

To the Chiefs of the Six Nations Indians:

The Government are of opinion, that it would greatly conduce to the happiness, wealth and comfort of the Six Nations, if all the land, with the exception of what is necessary for their own cultivation, and for firewood, should be disposed of, so as to create a fund, continually increasing, for the benefit of the Six Nations, and upon such a plan, they are of opinion, that the income of the Six Nations can be increased to a sum varying from £3000 to £5000 per annum.

The Government therefore, in the communication of the 5th of January instant, proposed to the Chiefs and warriors, that the whole tract, with the exception of such part of it as they may 40

choose to occupy as a concentrated body, should be surrendered, so that the same should be immediately disposed of for the benefit of the Indians, and to relieve their present embarrassed state of affairs.

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The Government were also of opinion, that it would be for the benefit of the Indians, and proposed, in their communication of the 5th instant, that they should remove to such tract as should be thus reserved, and set apart for their exclusive benefit, and become pledged to protect the same from every species of injury or intrusion upon the part of the white man. But in expressing thus their opinion to the Chiefs, and proposing that such a reservation should be made, it was by no means the intention of the Government, nor is it their intention to desire the removal
10 of any Indian from a farm at present in his occupation, and when the Indian himself is content to remain ; but they deem it advisable to secure a tract permanently for their occupation, in case any of the Indians should voluntarily desire to dispose of their improvements, under sanction of the Government, and to remove to such reservation when a home could be secured to him apart from the interference of the white man. . . .

I wish it likewise to be understood, that in case of any Indian (upon the proposed plan) should desire to dispose of his improvements, and to remove to the reserved tract, no bargain can be noticed or allowed which is not, in the first instance, proposed as well by the purchaser as the Indian, to the Department, and approved of ; and that any further trespasses or intrusion, of any nature whatever, upon the reserved tract, whether committed without or with the approbation of
20 the Indians, either singly or collectively, will meet with the strongest disapprobation of the Government ; and that the party offending shall be immediately removed and punished according to law. . . .

In conclusion, I can only further assure you, that if the above measure proposed, had not been maturely considered, and if it was not thought most calculated to promote the interests of the Six Nations, it never would have received the approbation of the Government, nor of myself, as Head of the Department; I therefore recommend to the Indians, in Council, that they approve of the Government disposing, for their exclusive benefit and advantage, either by lease or otherwise, of all their lands which can be made available, with the exception of the farms at present in their occupation and cultivation, and of 20,000 acres as a further reservation, and that the selection of that reserva-
30 tion be deferred until a general survey of the tract, when the position the most advantageous to the general interests and peculiar wants of the Indians can be more judiciously selected. I will merely add, that I will meet the Chiefs, in Council, at the Onondaga Council House, on Monday next, at one o'clock, to receive their answer.

SAMUEL P. JARVIS,
Chief S. I. Affairs.

APPENDIX No. 20.

Evidence of Mr. Superintendent Jones, respecting the Chippawas of the Upper St. Clair Reserve, River aux Sables, and Kettle Point.

Replies to the queries forwarded to me as Resident Superintendent of the Upper Indian
40 Reserve, River St. Clair, by the Commission on Indian Affairs.

8th. An Indian when once in possession, is entirely secured from the intrusion of any other person ; but repeated ill conduct or drunkenness would subject him to expulsion from the reserve by the Chiefs. At the death of an Indian, who merely expresses his last wishes, his family generally inherit his property ; but he can leave it to any individual member. In case of transfer or exchange, the approval of the Chief becomes requisite. An Indian, it is well known, possesses naturally no deeded property, unless acquired by purchase, so that he cannot dispose of any ; but when the Tribe sell, the whole management of the matter is left to the Government.

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APPENDIX No. 24.

Answers of Mr. Superintendent Anderson, to the Questions of the Commissioners of 1840.

MANITOWANING, 20th December, 1839.

SIR,— . . . From Fort William to the Red River, and throughout the vast north-west country where the Honourable Hudson's Bay Company have trading posts, the natives and mixed breeds must be very numerous, but I never have been able to ascertain their numbers. It would appear that it is not consistent for the gentlemen traders to impart information of this nature without the consent of the governor; and the only means of obtaining anything like a correct estimate, is by application to Governor Simpson or the Managing Committee in England. It is mere supposition to state any number, but, from the vast extent of country, the large annual collection of furs, and the numerous 10 servants employed by the Company, it is reasonable to conclude that the inhabitants exceed 20,000 souls. . . .

2nd. The mode of taking care of the Indian Reserve land, at present adopted, and whether great alterations and improvements might not be effected to the advantage of the Indians? The unimproved reserved blocks of land are, in many cases, complained of as obstructing to the improvement of the roads; could they not be let on long leases and a moderate payment of rent to the whites, and at the end of the term returned, with all their improvements on them, as the St. Regis Indians have done below Cornwall? . . .

I have, etc.,

T. G. ANDERSON,

S. I. A.

20

To Col. S. P. Jarvis,
C. S. I. A., U. C.,
Toronto.

Thomas G. Anderson, Superintendent at Manitoulin. Answers to queries proposed by the Commission on the Indian Department, in the year 1840.

Queries proposed by Committee on Indian Affairs. . . .

3rd. With regard to those resident within the settled portions of the Province, what lands have exclusively been appropriated to or reserved by them, and by what right and in what form have these appropriations and reservations been made? I cannot say what lands have been appropriated to or reserved for them; there must be some record to show by what right or form these reservations have been made. It would appear that the country became a British possession by right of conquest; and the aboriginals, after a truce, subjected themselves to the will of the conquerors, in which position they are at present. But it is reasonable to believe that about this time and before the white population had increased to any extent, that the Government foresaw the evil which would attend the sending of settlers into the wilderness if the nations were bound by that right of conquest, and, therefore, determined as a matter of prudence to convince the natives that their lands should not be forced from them, but that, when the Government required any portion for the white settlers, it would be bought from them. It may also be inferred that at the same time some arrangements were made rendering the natives incapable of conveying portions of their lands except with the consent of the Government. The Indians have no record of past events; all they know 40 of the original engagements between the Government and the natives, as far as I am acquainted, is by tradition, except two memoranda (Wampun belts), which they hold; the one being a pledge of perpetual friendship between the N. A. Indians and the British Nation, and was delivered to the tribes at a council convened for the purpose by Sir W. Johnston, at Niagara, in 1764 (Sir William being Superintendent-General of N. A. Indians). From the Indian tradition, or account of it, a

written explanatory document was delivered with them, but it is not now forthcoming. On the other Wampun belt is marked on one end a hieroglyphic denoting Quebec or this Continent; on the other is a ship with its bow towards Quebec; betwixt these two objects are woven twenty-four Indians, one holding the cable of the vessel with the left hand, and the next figure with his right, and so on, until the figure on the extreme left rests his foot on land at Quebec. Their traditionary account of this is that at the time it was delivered to them (1764), Sir William promised in the name of the Government that those tribes should continue to receive presents so long as the sun would shine, or the British wore red coats, which was an emblem of; and as the red sun warms the face of creation, so would the red coat by its bounty warm the twenty-four tribes or nations; and if ever the ship came across the great salt lake without a full cargo, or delayed her arrival, these tribes should pull lustily at the cable until they brought her over full of presents. After the death of Sir William, his son, Sir John Johnston, succeeded to his late father's situation, and renewed the pledges in 1786 by depositing with the tribes another belt of the same kind. These are the only records amongst the Indians within my knowledge, unless it be commissions granted by General Haldimand to the chiefs, of which there are still some to be met with.

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8th. What political relation do the Indians bear to the British Government, either as allies or as subjects. 1st. The scattered tribes of the N. W., and the visiting Indians. 2nd. Those having settlements within the surveyed limits of the Province?—Those Indians living within the U. S., who either through fear of bringing the displeasure of the Government upon themselves, or from a real attachment to the English, or from the persuasion or promises held out by the officers of Government, took up the hatchet in support of the British Arms during the late war with the United States, I take for granted are, or were allies of the British Government, and all those living within the Queen's dominions to be subjects.

With regard then to the former; at the termination of the war, not having the sagacity of the white man in these matters, they made no arrangement to perpetuate the relationship in which they then stood; and trusting implicitly to the promise then made to them, that they should live in peace and friendship with the big knives for the time to come, and that they should continue to receive the usual annual presents, they returned joyfully to their lands. Their circumstances compelled them to remain on the lands of their forefathers, within the territory of the United States, their deadliest enemy, and the consequence is well known; they have been despoiled of nearly every inch of their vast possessions, and driven in many instances at the point of the bayonet to the west of the Mississippi. Notwithstanding this apparent want of attention to their situation, they profess more attachment to the British than any other civilized nation. As regards those living within the settled parts of this Province, they consider themselves more immediately under the control of the English, and are more or less amenable to the laws of the country; their property secures their attachment to the Government.

The following additional questions have been ordered by the Committee to be sent (as connected with the Indian Department) to the Superintendents of Indians. . . .

3rd. With regard to the lands reserved to the Indians within the surveyed limits of the Province, and remaining generally wild, as hunting grounds; what are the chief difficulties in preserving them for their exclusive enjoyment, and what are the means used to prevent any interruption of that enjoyment? I believe the chief difficulty consists in their being taken possession of by squatters, more or less, and adventurers cutting timber, etc., on these lands. But such blocks of uncultivated lands in the settled parts of the Province may also be considered objectionable, inasmuch as they obstruct the improvement of roads, and prevent their settlement by a more industrious white population. I believe laws have been repeatedly enacted to secure to the Indians the exclusive enjoyment of their property, but I am told they do not produce the desired effect; hence arises amongst the Indians, in some cases at least, the disquieting idea, that these lands do not *bona fide*

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belong to them, or that the Government is not their competent guardian, otherwise there could be no difficulty in ejecting and punishing intruders.

4th. Have you heard of any facts from which you can judge of the efficiency of the late Act of Parliament for the protection of Indian Lands against Squatters? I am told there is on Saugreen Reserve, a Mr. McGregor, who cultivates a farm, cuts timber, has a large fishing establishment, and purchases the Indian presents for whiskey; and in the early part of last summer, he took up a fishing station on an Island about thirty miles to the S. E. of this, where he has a party of men at present; and although I sent him a copy of the Act relating to Squatters, etc., passed last session, he totally disregards it, and continues his unlawful traffic.

5th. What alterations and improvements can you suggest for the better securing the Indians the possessions appropriated, or for rendering them more generally beneficial to that race? Those lands called Indian Reserves, including many Islands on the St. Lawrence, must be worth an immense sum of money. In their present state, their proprietors derive no income from them, and as to hunting grounds they cannot, for any length of time, afford them a means of support; and should an extensive system of emigration take place, these uncultivated lands would present a serious obstacle, as I have before observed, to the general improvement of the country.

6th. What is the course which you think ought to be adopted in regard to intruders upon the Indian Lands; whether mere squatters or trespassers cutting and carrying away timber, or persons settling upon and improving lands within the Indian Reserve under some colourable title or permission of occupancy from the Indian Chiefs? To the substance of this query, I have alluded in my third answer; but I have always understood that the Indians were no more competent to give deeds or other titles for any portion of their lands, than a minor would be to convey his estate before he became of age, and that the Government was their lawful guardian. If this be true, the usual process of ejectment could not fail to produce the desired effect; if it be not so, and the Indians become acquainted with the inability of the Government to redress their wrongs, the probability is, they will harass intruders in some way or other until they be compelled to quit possession.

7th. Do you believe the intruders upon the Indian lands to be numerous, and to what extent; and how and what degree do you believe their residence within these Reserves affects the interests or comforts of the Indians?—Not having witnessed the effect produced, I do not feel myself competent to answer this query further than to say that I do not believe the injury sustained by the Indians from squatters to be so extensive as they imagine.

I have the honour to be, etc.,

T. G. ANDERSON,

S. I. A.

MANITOWANING, 4th February, 1840.

APPENDIX No. 46.

Sir John Johnston's speech to the Six Nations Indians, etc., at Niagara, 23rd July, 1783.

Although the King, your Father, has found it necessary for the happiness and ease of his more domestic subjects, to conclude a long, bloody, expensive and unnatural war, by a peace which seems to give you great uneasiness, on account of the boundary line agreed upon between His Majesty's Commissioners and those of the United States; yet you are not to believe, or even think, that by the line that has been described, it was meant to deprive you of an extent of country of which the right of soil belongs to, and is in yourselves as sole proprietors, as far as the boundary line agreed upon and established in the most solemn and public manner, in the presence, and with

the consent of the Governors and Commissioners deputed by the different colonies for that purpose, by your late worthy brother and friend, Sir William Johnston, in the year 1768, at Fort Stanwix. Neither can I harbour an idea that the United States will act so unjustly or impolitically, as to endeavour to deprive you of any part of your country, under the pretence of having conquered it. The King still considers you his faithful allies, as his children, and will continue to promote your happiness by his protection, and encouragement of your usual intercourse with traders, with all other benefits in his power to afford you. . . .

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APPENDIX No. 66.

Surrenders for payments made at the time.

DATE.	NAME OF THE TRIBES.	AREA IN ACRES.	AMOUNT PAID.	NATURE OF THE PAYMENT.
10 19th May, 1790..	Chippawas	2,000,000	£1,200 0 0	Sterling.
7th Dec., 1792..	Mississagas	3,000,000	1,180 7 4	
19th May, 1795..	Chippawas	28,000	100 0 0	In goods.
21st Aug., 1797..	Mississagas	3,450	75 2 6	
11th Sept., 1800..	Ottawas, Chippawas, Pottawatimies and Weyondottes	1,078	300 0 0	In goods.
1st Aug., 1805..	Mississagas	Not stated, but limits defined.	0 10 0	And divers goods and valuable considerations given on the 23rd September, 1787.
20 6th Sept., 1806..	Mississagas	85,000	1,000 0 0	
17th Nov., 1815..	Chippawas	250,000	4,000 0 0	
6th Aug., 1816..	Mississagas	428	107 0 0	

APPENDIX No. 67.

Surrenders for Annuities.

DATE OF SURRENDER.	NAME OF THE TRIBES.	AREA IN ACRES.	AMOUNT OF ANNUITIES.	CONDITION AND NATURE OF THE ANNUITIES.
20th July, 1820..	Mohawks of the Bay of Quinté	33,280	£450 0 0	£2 10s. in goods to each member of the tribe, but not to exceed £450 yearly.
30 31st May, 1819..	Mississagas of Alnwick	2,748,000	640 10 0	£2 10s. in goods to each member of the tribe, but not to exceed £642 10s. yearly.
28th Oct., 1818..	Mississagas of the Credit . .	648,000	522 10 0	In goods.
5th Nov., 1818..	Mississagas of Rice and Mud Lakes.	1,951,000	740 0 0	In goods.
17th Oct., 1818..	Chippawas of Lake Huron and Simcoe.	1,592,000	1,200 0 0	In goods.
26th April, 1825..	Chippawas of Cheneil Ecarté and St. Clair.	2,200,000	1,100 0 0	In goods. If the tribe decreases half, the annuity is to decrease in the same proportion. The original number specified in the deed is 440 souls.
40 9th May, 1820..	Chippawas of the River Thames.	580,000	600 0 0	£2 10s. in goods to each member of the tribe, but not to exceed £600 yearly.
25th Oct., 1826..	Moravians of the Thames . .	25,000	150 0 0	In money.
9th Aug., 1836..	Saugeen Indians	1,500,000	1,250 0 0	£2 10s. in money to each member of the tribe, but never to exceed £1,250 yearly.

Memorandum of the Conditions and Terms upon which the different Tribes of Indians in Canada have ceded their lands to the Crown for annuities ; being extracts from the original deeds or provisional agreements, executed at the time of surrender.

[Extract.]

SAUGEENS OF LAKE HURON.

Annuity£1,250 0s. 0d.

Is paid in pursuance of Lord John Russell's despatch to Sir George Arthur, dated 19th September, 1840, of which the following is an extract:—

“ I have, therefore, to authorize you to issue to each member of the tribe the customary annuity of £2 10s. The annuity not to increase with the tribe, but to decrease with its diminution in proportion to the lessening of its numbers.”

10

APPENDIX No. 98.

ON THE CIVIL RIGHTS, ETC., OF THE INDIANS OF UPPER CANADA.

Extract from Mr. Justice Macaulay's Report to Sir George Arthur, 1839.

As to the exercise of civilized rights, the resident tribes are peculiarly situated. Being, in point of fact, naturalized or natural born subjects, and domiciled within the organized portions of the Province, it would be difficult to point out any tenable ground on which a claim to an exempt or distinctive character could be rested. The Six Nations have, I believe, asserted the highest pretensions to separate nationality, but in the Courts of Justice they have been always held amenable to, and entitled to, the protection of the laws of the land.

Instances could be cited in which Indians in different parts of the Province have been arraigned 20
criminally for homicides committed on white people and on each other, and also for other indictable
offences.

An Indian of the Six Nations was tried and convicted before myself, at a late Niagara assize, for stealing one or two blankets from a squaw on the Grand River tract. The woman applied to a Justice of the Peace who felt bound to act upon her complaint. Exemption was claimed by the prisoner's counsel, as being a matter only cognizable among the Indians themselves, according to their own usages and customs ; but I had to refuse the plea, not being able to point out any legal authority by which the protection of the criminal law could be refused to the Indians inhabiting the County of Haldimand whenever any of them sought it. And I observed that, however important it was that a sound discretion should be exercised by local magistrates in cases not of an 30
aggravated character, I could not but admit that, in my opinion, the Indians were responsible for
crime.

REPORT OF THE SPECIAL COMMISSIONERS APPOINTED TO INVESTIGATE INDIAN
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UNDER COMMISSION OF GOVERNOR-GENERAL SIR EDMUND HEAD, DATED 5TH SEPTEMBER, 1856.*

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Your Commissioners have also endeavoured to define the actual limits of the Indian territory, with a view to ascertain what may be convertible into funds to aid in the support of the Aborigines when the Imperial aid shall be withdrawn, and which may be available to meet the demands of the white population for land, after reserving so much as may be necessary for the Indians themselves.

10 Your Commissioners have taken the Report of Messrs. Rawson, Davidson and Hepburn as their starting point, and have adopted the same division of the subject. The relations up to that time of the Government with the Indians, the conditions of the native tribes, and the state of the Department to whose care they were entrusted, are so fully and clearly enumerated in that document, that it has been judged unnecessary to give at any great length those results arrived at during the present investigation, which apply to an earlier period.

On the 30th of January, 1849, the Earl of Elgin reported the arrangement made by Lord Metcalf in 1845 with most of the settled tribes, whereby the annual issue of gunpowder was withheld on the understanding that the sum thus saved would be applied in promoting education among them. His Lordship proceeded to state his views regarding the Aborigines as follows:

20 "While on the one hand the lamentable experience of this continent proves that they cannot, in their present condition, cope with the whites successfully, and especially with the reckless adventurers who gather around the promising settlements, it is in the other no less certainly their truest interest, that habits of independence and self-help should be fostered among them, and the period of tutelage as much as possible curtailed. With this view I am disposed to think it advisable that the system of withdrawing from such Indians as can dispense with them all presents which tend to perpetuate a hunter's life, of requiring those who have reserves to make roads through them, and generally to assume their share of the duties and burdens of civilization, and of setting apart in the said reserves lots for each family, should be persevered in. I attach, however, more importance to the establishment of Industrial Boarding Schools for the children of both sexes than to

30 any other measure of this class. . . . I trust that it may soon be in my power to report that these useful establishments have been multiplied in the Indian settlements without cost to the Government."

On the 15th of March, 1851, the Secretary of State in reviewing the expenditure of the English Parliamentary Grant, came to the conclusion that the gradual extinction of this vote would not conflict with any just claims on the part of the Indians. In announcing the decision of Her Majesty's Government that the issue of the presents should cease in the year 1858, he expressed his confidence that the Provincial Legislature "would never be insensible to the claims which the former occupants of the Canadian territory have upon the consideration of the great and flourishing European community by which it is now inhabited."

40 As some of the matters relating to lands which are in dispute are influenced by the claim which the several tribes have to the occupation of particular tracts of territory, we have thought it advisable to carry our researches in this particular as far back as the means of information at our disposal enable us to penetrate.

We find that at the earliest period of which we have any accurate accounts, the nations in possession of what is now called Canada, were the Algonkins, the Hurons, Wyandots or Yendots, and their kindred of that singular confederacy called by the French "La Nation neutre."

* Sessional Papers, Canada, 1858, No. 21.

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As "la nation neutre" was exterminated by the Iroquois in some of their predatory and murderous incursions into Canada before the year 1650, we need not enter into any of the details of their history.

The Hurons, Wyandots or Yendots as they are more properly called, were the head and principal support of the Algonkin Tribes against the Five Nations; the Delawares themselves, leaders in their own confederacy to this day, recognize the superiority of the former, who originally held most of the peninsula between Lakes Huron, Erie and Ontario, and some of their settlements were found by the French on the north-eastern coast of Lake Huron.

They consisted of several confederated tribes, the Ataronch-ronons, the Attiguenongua-hai, the Attiquaou-eutou (or Nation de l'Ours), the Ahrendah-ronons, and the Tionontate, who reside 10 in the part of the country now occupied by the Wyandots near Amherstburg. The word "Huron" is of French origin. They are generically Iroquois, that is they speak a dialect of the same lingual stock. Notwithstanding this affinity, fierce wars raged between them and the Confederacy of the Five Nations, and about the middle of the 17th century, the latter attacked their settlements and drove many of them up into the country of the Otchipwes, by whose help they subsequently expelled the invaders, and a portion of them returned to Detroit, in the vicinity of their ancient seats.

At this period the Otchipwes, or Chippewas, settled themselves in the valley of the Thames and surrounding country. At the time of their defeat a portion of the Hurons escaped by the Valley of the Ottawa, and took refuge under the walls of Quebec. Hence arose the Indian 20 settlement of Sillery, whose descendants now claim to exist at La Jeune Lorette.

The Algonkins reckoned among their kindred tribes the Lenni Lenapé, one division of whom, the Delawares, are now to be found on the River Thames in the Township of Oxford.

They must not be considered as original occupants of this tract; they settled there under an Order in Council, dated 1793, after they had been driven from their former settlement on the River Muskingum in Ohio, by reason of troubles which arose between them and the surrounding whites.

Another branch of the Lenni Lenapé, the Minsic, also called Monsey or Munsee, that is the Wolf Tribe, are to found at the village called after them, Muncey Town, on the reserve which they occupy in common with the Chippewas of the Thames.

A third branch of the Lenapé, the Shawanese or Shawnoes, are still represented in this 30 Province by a few scattered individuals among some of the other tribes. Their name is well known in Canadian history from the valor displayed by them under the guidance of Tecumseth.

The Ottawas originally held sway on the river of that name, until driven thence by the victorious Iroquois who turned their arms against them after the rout of the Yendots. They fled westward into the Pottawatamie country. They do not however seem to have formally relinquished a claim to their former habitation, until after the taking of Detroit, when a quadripartite Treaty was signed by them, the Wyandots, the Otchipwes and the Pottawatamies; by this agreement the Otchipwes obtained that part of the country lying north east of a line drawn east and west through the city of Detroit, while the river of that name was taken as the dividing line from north to south.

The Yendots resumed undisputed possession of part of the tract over which they had held 40 acknowledged sovereignty among the native tribes.

The north-west portion fell to the lot of the Ottawas, while the Pottawatamies occupied the remaining section. The settlement of the Otchipwes on the Thames was not disturbed.

This agreement is important, as white people have endeavored under irregular titles acquired from the other tribes concerned in this Treaty to obtain land in possession of the Wyandots.

The Ottawas now residing in Canada have for the most part returned to this side of late years from the American shore, where they were located under the foregoing treaty. Members of this tribe are to be found in the Manitoulin Islands, and scattered along the shore of Lake Huron. Some are also settled on Walpole Island at the head of Lake St. Clair.

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Scattered throughout the Western District are also to be found the Pottawatamies in considerable number. They are able to communicate with the Ojibwas without much difficulty, as their dialects are very nearly akin. The Pottawatamies have all migrated from the United States into Canada.

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10 After the expulsion of the Five Nations from their conquests on the Ottawa, and in Western Canada, the Ojibwas and their brethren the Mississaguas or Eagle Tribe seem gradually to have moved down from their hunting grounds in the Upper Lakes, and to have taken the place of the Neutral Nation and other tribes, who had been either extirpated or dispersed by the Iroquois. They thus overspread the country lying between the Ottawa, Lake Huron and Lake Ontario, and extended themselves along the northern shore of Lake Erie.

Proceeding eastward we find among the tribes of Algonkin origin, the Nipissings, and the band now specifically called Algonkins, who are to be found at the Lake of the Two Mountains, on the Gatineau, at Maniwaki, and thence scattered around the head waters of the Ottawa and the St. Maurice.

20 The Iroquois of Caughnawaga and Actkissasno or St. Regis are the descendants of those who were induced by the French to congregate at Frontenac, whence they removed to their present settlements. With them are incorporated the Oswegatchys of La Galette, or Prescott, who were chiefly emigrants from the Onondagas. The Iroquois at the Lake of the Two Mountains separated from those at the Sault St. Louis, when the Village was moved from the lower end of the Reserve near Longueuil to its present site.

We are led to believe that the Iroquois have a better claim to the Islands in the St. Lawrence, below Gananoque than the Mississaguas who dispute them with them, inasmuch as the former seem to have been the earlier recognized occupants of that part of the country.

IROQUOIS OF THE SAULT ST. LOUIS.

These Indians occupied lands in the Valley of the Connecticut, and State of New York.

30 On entering this Province they were settled on the Seigniorie now in their possession.

Besides the land at Caughnawaga these Indians are entitled to share in the grant of 16,000 acres made under the Act 14 and 15 Vic., c. 106, to them and their brethren settled at the Lake of the Two Mountains. This tract is situated in the County of Leinster on the Riviere du Nord.

The manufacture of maple sugar is carried on to a very considerable extent in the Reserve, and forms an important item in the resources of the tribe.

The revenue of this band is small, consisting of \$1062.40; of this \$62.40 represents the yearly interest of the money funded for their use, and is derived from the land sold to the St. Lawrence and Champlain Railroads which passes through the Reserve.

INDIANS AT THE LAKE OF THE TWO MOUNTAINS.

40 In consideration of the claim pressed by these Indians for compensation for their hunting grounds on the Ottawa River, which had been taken possession of by the white population before they were surrendered, or the Indian interest consulted in any way, the Executive Government granted to these bands under the 14 and 15 Vic., c. 106, 45,750 acres on the River Desert. A

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certain number of the Algonkins have embraced the opportunity thus given to them of exchanging the sterile tract at the Lake of Two Mountains for a fresh location, where they have formed the settlement of Maniwaki, and are beginning to apply themselves to Agriculture.

THE ABENAKIS OF ST. FRANCIS.

This tribe with whom are incorporated several of the Sokokis, reside in lands situated within the Seigniories of St. Francis and Pierreville. In the former, the Reserve originally comprehended half a league in depth, ascending the river, by a league in breadth.

There have been for many years past disputes as to the exact limits of the Reserve of the Abenakis.

The Indians of St. Francis are also entitled, under the 14 & 15 Vic. c. 106, to a share in a tract of 14,000 acres, on the River St. Maurice at La Tuque. The reformed party have applied to exchange this portion of their Reservation for some of the vacant Crown Lands in the Township of Clinton.

THE ABENAKIS OF BECANCOUR.

This band, which is of extreme poverty, occupy some land near the village. They are, however, possessors of 2,000 acres in the Township Coleraine, County of Megantic, under the Act which cedes lands to the Indians of Lower Canada. They have also a share, under the same Act, in 14,000 acres on the River St. Maurice, in the County of Port Neuf, near La Tuque.

HURONS OF LA JEUNE LORETTE.

They possess at their village 59 acres of ground, the whole of which is sub-divided into 20 small patches or gardens cultivated by the Indians. They have also 1,600 acres in the Seigniorship of St. Gabriel not far from their settlement, on which some improvements have been made. They are also entitled to 9,600 acres which have been allowed to them, under the Statute 14 & 15 Vic. c. 106, on the north-west branch of the River St. Anne, in the Township of Rocmont.

AMALICITES IN THE TOWNSHIP OF VIGER.

This tribe are the only representatives in Canada of the Amalicite Nation, whose principal strength is still to be found in New Brunswick, where they have several settlements in the valley of the St. John.

In the year 1828 about thirty families of these Indians were induced to form a settlement on a branch of La Rivière Verte in the Township of Viger. The reserve comprised 3,000 acres in 30 lots of 100 acres to each family.

Under the Act 14 & 15 Vict. c. 106, this tribe became entitled to 3,650 acres more, which were located in the same township.

The Reserve is situated between the main and south branches of the Rivière Verte, about seven leagues from Rivière du Loup.

MICMACS OF THE RESTIGOUCHE.

Their Reserve contains 840 arpents at Mission Point, and a tract of 8,916 acres in the Township of Mann has been allotted to them. Of this they have under cultivation at the present time about 400 acres.

The level part of the Reserve is principally under tillage, and divided into small, well-fenced enclosures. The high land is well timbered, and is chiefly used as a sugar bush and a supply of firewood.

Their reserve has already attracted the cupidity of some of the neighbouring settlers, who have made extensive encroachments upon it.

Under the Act, 14 & 15 Vict. c. 106, a tract of fifteen square miles, equal to 9,600 acres, was allotted to this tribe and was located on waste lands belonging to the Crown in the rear of the Indian settlement.

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THE UNSETTLED TRIBES ON THE LOWER ST. LAWRENCE.

These tribes, wandering on the north shore of the St. Lawrence, from the Saugenay downward, are entitled under the Act 14 & 15 Vict. c. 106, to 90,000 acres, of which 16,000 were located on the Peribouka River, and 4,000 on the Metabetchouan, near the Lake St. John. These tracts
10 are allotted to Montagnais Tribes in that locality. Upon an application however made by them an Order in Council dated September 6th, 1856, changed their reserve to a tract equivalent in extent at the Pointe Bleue in the Lake, in order that they might enjoy without interruption the fishing in its waters on which they rely so much for their livelihood. The 70,000 acres remaining are located on the St. Lawrence, from the River des Vases to the River des Outardes at Manicouagan, 11 miles in breadth by 10 miles in depth.

There are some wandering tribes in the eastern section of the Province of whom we have been able to glean little or no intelligence. They formerly used to come forward to receive their annual presents. To these belong the Têtes de Boule and Algonkins of Three Rivers, and the Nipissings, Algonkins and Ottawas wandering near the head waters of the Ottawa River. The first two tribes share in the revenue allotted to them and the Abenakis of St. Francis at La Tuque; while the
20 latter have been granted a tract of 38,400 acres at the head of Lake Temiscamingue.

SIX NATIONS.

[Of the original grant to these tribes of 694,910 acres] there remained, in 1845, in the hands of the Indians, 55,000 acres, distributed as follows :

In Tuscarora.....	42,000 acres.
“ Oneida	8,395 $\frac{3}{4}$ “
“ Onondaga.....	1,537 $\frac{1}{2}$ “
“ Brantford.....	200 “
	52,133 $\frac{1}{4}$

30 The remainder is made up by outlying farms, occupied by scattered families, some of which have subsequently been sold; the Indians retiring to the main Reserve.

The New England Society maintain five schools on the Reserve.

MISSISSAGUAS OF THE NEW CREDIT.

This band were settled on the banks of the River Credit on Lake Ontario, where they had a considerable reserve, and a thriving settlement. In 1847 the Credit Indians removed to their present settlement [6,000 acres in Tuscarora]. While the question of abandoning the village at the River Credit remained undecided, several individuals removed to other reserves, occupied by branches of the same tribe.

They had in 1805 sold to the Crown the greater part of their land for an annuity of £522 10s.
40 currency. There were then reserved for their own occupation the tracts shewn in the accompanying tracing as blocks A, B, C, containing 10,940 acres. They have a few lots still unsold at their old reserve on Lake Ontario.

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CHIPPEWAS AND MUNSEES OF THE THAMES.

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In 1819 the Chippewas of the Thames surrendered to the Crown 552,190 acres of land on the north side of the river, for an annuity of £600, when the present reserve, 15,320 acres in the Township of Carradoc, was set apart for them.

(3) Ontario and Quebec. In the year 1800 a band of Delawares or Munsees left the United States and settled on this tract, but are not parties to the surrender, and consequently have no share in the annuity or land fund.

In 1842 they numbered 240 and were restricted by the Chippewas to a block of land a mile square on the river at Lower Muncey Town. This proceeding has been the cause of much ill feeling, and repeated applications have been made by the Munsees to be allowed to occupy more land, but the Chippewas considering themselves the sole owners of the reserve have never given their consent. The effect of this conduct on the part of the Chippewas, has been the removal of some of the most industrious Munsee families to the Moravian Tract, which has reduced the number of this band considerably, and many more were preparing to follow, when the movement was stopped by the surrender of this last named reserve.

It was not until the year 1830 that the Chippewas were collected and settled on this reserve, when a large Chapel or Council House and several log buildings were erected by the Government.

MORAVIANS OF THE RIVER THAMES.

In the year 1798 by an Order in Council on the petition of Gottlieb Senseman, 51,160 acres of land in the Townships of Zone and Orford, were surveyed and set apart for the Moravians, who numbered at this time about 300 souls.

For many years the Moravians were an industrious, contented and happy people, living in a compact village and working the land in common, but their condition and character have of late years become so altered that as a band they may now be considered the poorest and most dissipated in this part of Canada.

Among many causes which have operated to bring about this state of things we may mention three. . . .

2nd. The fact of possessing so large a tract of land covered by timber, which in consequence of the settling and clearing up of the country around them, was eagerly sought after by the whites. This induced many to leave their houses and gardens in the village and settle on distant portions of their reserve bordering on the river, where in spite of and in direct opposition to the orders of the Superintendent, they would dispose of timber, easily obtaining thereby money to be spent in idleness and dissipation. . . .

WYANDOTS OF ANDERDON.

The Huron reserve in the Township of Anderdon, seven miles square, and fronting on the Detroit River, formed part of the ancient possessions of the Wyandots, and was confirmed to them at the general partition of lands by the different tribes in the year 1791.

Fighting and Turkey Islands, called by the old French settlers La Grosse, and La Petite Ile aux Dindes, respectively, both in the vicinity of the reserve, are also claimed by the tribe. The former contains about 1,200 acres of good land, but its principal value consists in the fisheries.

CHIPPEWAS AND POTTAWATAMIES OF WALPOLE ISLAND.

Walpole Island at the lower end of the River St. Clair, has never been surveyed, but is estimated to contain 10,000 acres, of which 8,000 are capable of cultivation, the soil being of superior quality.

CHIPPEWAS OF CHENAIL ECARTÉ AND ST. CLAIR.

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In the year 1827 this tribe surrendered to the Crown 2,182,049 acres of land in the London and Western Districts for an annuity of \$4,400, when the following reserves were set apart for them :

Sarnia, in the Township of Sarnia.....	10,280	acres.
Kettle Point, in the Township of Bosanquet.....	2,446	“
River aux Sables, “ “	2,650	“
Moore, in the Township of Moore.....	2,575	“

In the year 1831, one portion of this tribe was first collected on the Sarnia Reserve under the 10 superintendence of Mr. William Jones ; another portion settled upon Walpole Island, 30 miles lower down the St. Clair River, which appears to have been, at the conclusion of the last war with the United States, specially appropriated as a future home for the Indians. The remainder, consisting of a few families, occupied the reserve at the mouth of the River aux Sables on Lake Huron.

At a general council of the Sarnia and Walpole bands in 1836 the Walpole band agreed to take as their share of the annuity \$1,400, and the small reserve in Moore, containing 2,575 acres, in addition to the island on which they reside, which cannot be considered exclusively a Chippewa Reserve.

The Sarnia band retain the remainder of the annuity, amounting to \$3,000, and the reserves at Kettle Point and the River aux Sables, containing together 5,096 acres, in addition to the 20 reserve which they occupied, comprising 10,280 acres of exceedingly valuable land.

SARNIA RESERVE.

At the first settlement of this reserve, in 1831, the Government had a number of farm lots surveyed, a certain quantity of land cleared on each lot, and 14 comfortable log houses erected for the Indians, a large Chapel or Council House, and residences for the superintendent and missionary. In the year 1840 this band surrendered a block of land on the rear of their reserve, containing 2,540 acres, and in 1852 a further quantity of 198 acres, adjoining the village of Sarnia.

SCATTERED BANDS ON THE NORTHERN SHORES OF LAKES HURON AND SUPERIOR.

Until the year 1850, the whole of the northern coasts of these Lakes, Huron and Superior, remained in the occupancy of the Nomadic Bands of Chippewa Indians, who claimed them as their 30 hunting grounds. Civilization had hardly extended so far, except in spots, where a few houses might be found clustered round a post belonging to the Hudson's Bay Company, or in the vicinity of one of the freshly discovered mines.

In the above mentioned year they surrendered, with the exception of certain reserves, the whole of this vast extent of country, in consideration of a sum of \$16,640 paid down, and a perpetual annuity commencing at the rate of \$4,400, of which \$2,400 is payable to the tribes on Lake Huron, and the balance of \$2,000 is divided among those inhabiting the shores of Lake Superior.

If we considered that it came properly within our Province, we should not hesitate to express our decided regret, that a treaty shackled by such stipulations whereby a vast extent of country 40 has been wrung from the Indians for a comparatively nominal sum, should have received the sanction of the Government.

The Indians further bind themselves under the treaty, “ That in case the Government of this Province should before the date of this agreement have sold or bargained to sell any mining locations or other property on the portions of the territory hereby reserved for their (*i.e.* the Indians') use,

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then and in that case such sale or promise of sale shall be perfected by the Government, if the parties claiming it shall have fulfilled all the conditions upon which such location was made, and the amount accruing therefrom shall be paid to the tribe to whom the reservation belongs."

Most of the reserves on Lake Huron are more or less covered by claims of this description. It does not however appear that any of the locatees have completed the conditions of purchase within the prescribed time; so that in our opinion the land is now free from all incumbrances, and reserved solely for the Indians surrendering.

The tracts reserved are as follows:

[Here are given description and sundry particulars of each of the seventeen reserves under the Lake Huron Treaty. The seventeenth is thus described:—] 10

To Nebenaigoching and his bands, a tract of land extending from Wanabekinegunning, west of Gros Cap, to the boundary of the lands ceded by the Chiefs of Lake Superior, and inland ten miles throughout the whole distance. The whole number now occupying the Reserve is 237.

The Indians on this reserve claim that the rear line of their land should follow the line of the shore at a distance of ten miles inland instead of being run in a straight line as done by the Surveyor. His construction of the treaty gives them a reserve of 164 square miles. Their claim would extend over upwards of 300.

The reservations made on Lake Superior are as follows:

For Joseph Peau-de-chat and his tribe, the reserve to commence about two miles from Fort William (inland), on the right bank of the River Kiminitiquia, thence westerly six miles parallel to the shores of the Lake, thence northerly five miles, thence easterly to the right bank of the said river. 20

The reserve so laid out comprises 18,778 acres.

The number of Indians occupying this reserve is at present 256.

The second reserve is four miles square at Gros Cap, for Totomenai and his tribe. This band now consists of forty-one families, containing 169 individuals.

On this reserve at Gros Cap is a valuable iron mine, which has been sold for the benefit of the band, and the money is now accruing to their advantage.

The third tract set apart by the treaty is four miles square on Gull River.

Besides the Indians residing in the above mentioned reserves, a considerable number are to be found in the lands ceded by them to the Crown. 30

CHIPPEWAS OF SAUGEEN AND OWEN SOUND.

Since the report of the Commissioners of 1842, considerable changes have taken place among this tribe.

In 1854, a cession of almost the entire peninsula was obtained from them, reserves to the extent of 43,839 acres being only retained for their own occupation, of which 11,453 acres on the east were, by mutual consent, considered to belong to the band living at Newash or Owen's Sound. The reserves at Saugeen and Chief's Point on the west containing about 10,800 acres are for the benefit of the Saugeens; that at Colpoy's Bay, for the band of that name, containing about 6,000 acres; and that at Cape Croker, by admeasurement, 15,586 acres, is common to the Saugeen and Owen Sound bands. 40

CHIPPEWAS OF RAMA.

This band was located on its present reserve in 1838.

SCUGOG LAKE BAND.

These Indians formerly occupied a reserve of 1,206 acres in the Township of Bexley, in Balsam Lake. Having become dissatisfied with the climate and quality of the soil in their location, they were permitted to purchase, out of the proceeds of their annuity, 600 acres in the Township of Cartwright, on the shores of Lake Scugog.

MISSISSAGUAS OF ALNWICK.

They were the remnants of the powerful tribe which ceded a large tract in the Johnstown, 10 Midland and Newcastle Districts to the Government.

They claim, however, to have retained the following reserves.

[Several islands are here specified.]

The acceptance of the surrender from the Indians in 1856 by the Government, is an acknowledgment that those islands had never been ceded by them.

POSITION OF THE NATIVE TRIBES IN THE EYE OF THE LAW.

By the proclamation of 1763 territorial rights, akin to those asserted by sovereign Princes, are recognized as belonging to the Indians, that is to say, that none of their land can be alienated save by treaty made publicly between the Crown and them. Later, however, as this was found insufficient to check the whites from entering into bargains with the Indians for portions of 20 their land, or for the timber growing thereon, it has been found necessary to pass stringent enactments for the protection of the Indian Reserves; as these differ in the two sections of the Province, it may be well to consider separately the laws passed for the attainment of this object both in Upper and Lower Canada.

In Western Canada penalties of fines and imprisonment are imposed on all persons cutting timber, quarrying stone, squatting or otherwise trespassing on the Indian lands. These apply equally to all intruders, even if they attempt to disguise their violation of the law under colour of irregular sales, leases, or agreements with the Indians without the sanction of the Government. To enforce these, special Commissioners, with summary powers, are from time to time appointed.

Statutory provision is also made to restrain the sale of spirituous liquors to the Indians.

30 The Indians, as members of a band occupying a Reserve in common, are by law exempt from taxes and assessments, and confession of judgment cannot be taken against them, nor can any debt be recovered from an individual Indian, unless he shall be possessed of real estate under Letters Patent from the Crown, and be assessed in respect of such estate to the amount of £25 or upwards.

They are thus virtually minors though holding in some respects unusual territorial privileges and exemptions.

In Lower Canada, too, steps have been taken to protect the rights of the Indians, and preserve them from the vice of intoxication.

By [several] Ordinances and Acts the sale of spirituous liquors to the Indians without license is 40 prohibited, and all persons trespassing on the Reserves are liable to be removed within seven days,

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and to be mulcted in a heavy penalty in case of not complying with the order. A special Commissioner is appointed, in whose name all legal proceedings are carried on, and whose duty it is carry out the several enactments. In him are vested, as trustee, all lands in Lower Canada now held by the Crown in trust for the benefit of any of the tribes resident in that section of the Province. * * *

On these grounds of neglect and mal-administration on one side, and helplessness on the other, we believe that the Indians have an equitable claim to the special care and protection of the British Crown,—and we could not pass over in silence what we feel to have been a grievous wrong inflicted on them in former days. There are two other reasons which may be put forward by the Red men of Canada as giving them a claim to consideration. We allude to the terms on 10 which such vast tracts of their hunting-grounds were surrendered to the Crown; this will be found more fully explained elsewhere in this report and appendices.

When to these are added, what we must consider undue advantages taken of tribes surrendering as to the terms of cession, and the speculations of dishonest agents appointed by the Crown, we cannot resist the conviction, that the rights of the Indians have been at times lost sight of, and made to yield to other and more pressing objects. We would also call attention to the omission made at the time of the union of the Provinces. The Indian department was not placed on the Civil List when the Act of the Union was passed, nor was any provision made even for the annuities of the native tribes in that Act. It is true this last oversight was subsequently remedied, but it is an undoubted proof of the disregard of the Indian interests at that time. 20

We feel, too, that the aborigines from their past history, in times of war as well as of peace, have a strong claim on their English neighbours.

Not only did they at first, as stated above, welcome the white man to their territory, and yielded their broad hunting-grounds for the formation of his settlements, but at his desire they have taken up the tomahawk and spilled their blood freely in wars entered upon solely at his request and for his benefit.

The claims of the Indians in respect to their former territorial possessions have been justly said to be properly resolved at the present day into an equitable right to be compensated for the loss of the lands from which in former times they derived their subsistence, and which may have been taken by Government for the purposes of settlement. It has also been argued with truth 30 that the measure of such compensation should be to place and maintain them in a condition of at least equal advantage with that which they would have enjoyed in their former state.

One of the points to which our attention has been most particularly directed, is the practicability of defraying all the expenses connected with the management of the Indian department out of the revenues of the tribes under its charge.

Viewing, as we do, the Indian territory in the light of a private estate rather than of a public domain, we believe the principle to be a just one.

Several schemes based on this footing have been mooted at intervals ever since 1837, if not from an earlier period. The difficulties, however, attendant on the practical working out of any such plan have hitherto prevented any of them from being carried into execution. We have 40 given this subject our most earnest consideration, and we have arrived at the conclusion that any such plan if put in force at once would be fraught with great hardship to the Indians. * * *

We, therefore, proceed to lay before your Excellency the terms on which, in our opinion, an arrangement might be entered into, which would prove advantageous at once to the Indian interest and those of the Province at large. . . .

6th. The Indians in their turn should at once cede, at a fair valuation, to the Province, such land as shall be previously decided not to be necessary for their own use.

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A question may here be asked whether the Government are not pledged to abide by the proclamation of 1763, a document on which many of the tribes rest their claims, in part, at least, to the lands now occupied by them.

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We are convinced that the Executive would be unwilling to lend their sanction to any arrangements which involved even a semblance of a breach of faith towards the Indians. We will, therefore, proceed to examine this point, and to explain how according to our views the proposed transfer is coincident with the true interests of the Indians.

10 The words of the Proclamation are as follows :—(Here follows extract from Proclamation.)

In the first place, we look to the past history of the Indian settlements in Canada to learn how far the foregoing injunctions were sufficient to preserve the reserves intact from unauthorized intrusion. We there see reiterated attempts at infraction of such injunctions, and even when those orders were strengthened by penal statutes, the efforts to invade the law became so numerous that in parts of the country a compromise had to be effected with the trespassers. The transfer of improvements on land by an individual Indian for valuable considerations to a white squatter was an affair of frequent occurrence. The evils arising from such irregularities led to much trouble and disturbance. The bands have, therefore, been induced to surrender to the Crown some of the disputed tracts, the pre-emptive right to purchase being in most cases subsequently offered to the
20 squatter.

This course may have become a necessity, but the adoption of such a system cannot be too strongly deprecated. In fact, the more stringent Indian protection Acts have been passed to meet the difficulty; still the facts are fresh in the memory of many, and it must be remembered in dealing with these lands that the sympathies of the country at large are with the squatters.

The Crown itself, too, while adhering to the letter of this Proclamation, have, as appears in a former page of this Report, purchased large tracts from the Indians for a mere nominal sum, sometimes in goods, sometimes for an annuity utterly inadequate to the value of the land.

By ceding their land at a valuation, as proposed, the Indians would have the further advantage
30 of at once enjoying the interest arising from the proceeds of the land, instead of waiting several years for the payment of the instalments as they become due. The benefit accruing from this to the old Indians is very considerable, as it increases the means of livelihood accessible to a class too much wedded to their old semi-barbarous customs to form an industrious or useful class of the population of the country.

The younger portion of the Indian race may be led to form new and civilized habits, but in our opinion all that can be done for those now advanced in life is, so far as may be possible, to give them the means of support in exchange for the land they occupy so unprofitably.

To secure, however, the interests of the Indians from any pressure from without which might lead to a sacrifice of their lands at a depreciated value, it appears to us that the safest course would
40 be to give to the Indian property the additional security afforded to a private trust by the Judges of the Superior Courts. The Indian property is strictly a "trust property," as much as any lands or funds vested in trustees for a private "*cestui que trust*."

As, however, a great latitude must necessarily be left to the administration of the Indian office, we do not propose that any further interference should be given to the Judiciary of the Province in the conduct of its affairs, than its sanction in all transfers of land, or in the invest-

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ment of moneys belonging to the Indians. Were this safeguard interposed, we do not see that it would be absolutely necessary in most cases to obtain the consent of the Indians to a surrender, where such surrender appeared to be clearly for their benefit. We propose, then, that so soon as it shall have been decided what portion of the Indian reserves are necessary for the use of those now rightly entitled to occupy them, three valutors should be appointed, one by the Crown on behalf of the Indians, another to act for the Provincial Government, while the third to be nominated by one of the Superior Courts in either section of the Province, should be appealed to in case of disagreement between the former two.

The decision of any two of these arbitrators, when approved by the Court, as above mentioned, should be final. 10

The attachment of the natives to the parts of the country where they have been born and brought up is extreme, and it cannot therefore be wondered at that they have, in many cases, refused to exchange their present reserves for lands in the north and west, fertile perhaps, but much more inhospitable in climate and productions than the rich tracts now occupied by them in the Western Peninsula of Canada. This disinclination on their part to remove has thus been another of the causes of failure in the Manitowaning settlement. The tribes did not congregate there as was intended and hoped.

In the settled districts the tracts now set apart for the Indians seem to have been calculated rather with a view to their avocations as hunters than with the idea that they could ever occupy them as farmers. Even now, after the immense cessions which have at various times been obtained, the reserves are quite disproportionate to the numbers and means of the bands residing in them. 20

The settlement of the surrounding country by the whites has long since driven away the game, and the Indians, for the most part, occupy small patches of clearing dotted about in the large tracts belonging to them, while the rest remain utterly unimproved. It is true that a difficulty presents itself at present in endeavouring to obtain possession of the waste parts of the reserves. The Aborigines have been hitherto treated to a certain extent as sovereign princes, as lords of a soil which yet they were not possessors of. It is this anomalous position which has given rise to much of the difficulty connected with these lands. No territory can be taken possession of except by a voluntary surrender from the Indians, while they are aware, to a certain extent, of both the strong and the weak points of their title, and, feeling the pressure of the tide of immigration, refuse to cede a part of their possessions for fear of being deprived of the whole. 30

The unwillingness on the part of the Indians to surrender has been greatly increased by the losses they have suffered through the carelessness and dishonesty of those appointed to watch over their interests.

They have ceded very large tracts of valuable land without receiving one penny of compensation, and it will not be until these losses have been somewhat repaired that we can expect them often to give up voluntarily more of their reserves. The large sums lately realized by the sale of the Saugeen territory will go to counteract the unfavourable impression under which they have hitherto laboured, and its effects are indeed already apparent. To aid this growing desire to exchange their lands for lasting annuities derived from the proceeds of the sales, we earnestly recommend, in all cases in Western Canada, where a final location of a band shall be determined upon, that each head of a family shall be allotted a farm not exceeding 25 acres in extent, including an allowance of woodland where they may obtain fuel; that for such farm he shall receive a license giving exclusive occupation of the same to him and his heirs forever, on condition of clearing a certain number of acres in a given time. These documents should be so drawn as to prevent the Indians from disposing of their interest in the land, except with the consent of the Government, and might be revocable on proof of habitual intemperance, or for continual neglect of the same. Further inducements might be held out to the Indians by laying out on their farms a cer- 40

tain proportion of the sums realized by the sale of the ceded territory. It is true that the present occupants have only a life interest in the land, but such an application of the proceeds cannot be fairly considered a misapplication of the trust as the improvement to the property would be permanent.

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Some system of concentration of the small bands must, we think, eventually be adopted; but before developing the details of any particular plan, we think that it would be advisable that there should be a comprehensive inspection and report on the agricultural capabilities of the Manitoulin Island, Garden River Reserve, that at Batchewanaung Bay, Walpole Island, or such other places as may seem the most fit for such a purpose. We have no doubt that the bands now occupying lands on the small lakes north of Lake Ontario, would be easily induced to collect at Munsey Town, where some of their brethren are already located; but looking to the relative value of land in the two localities, we do not think it advisable to promote by artificial means the increase of the Indians in the latter part of the country.

Even after offers have been made to the Indians, both of annuities and of selling their reserves for their exclusive benefit, we doubt not there will be several bands who will refuse a voluntary cession on any terms. In such cases we do not consider that the interests of the country at large are to be thwarted by the prejudices of a small portion of the community. We perceive that so far back as 1838 Lord Glenelg wrote as follows; after approving of written titles to their lands being given to the Indians, he proceeds to urge the propriety of a measure, whereby "It shall be in the power of the Government, should the Indians not cultivate the lands, to remove them hereafter to other hunting grounds, when the advance of settlements may render such a measure expedient, but if they should cultivate it, then to contract the limits of their reservation to such an extent as would leave them the means of procuring an adequate and comfortable subsistence." And further, "However rigidly the rules respecting the disposal of lands may be observed in general, and it is necessary to observe them with the utmost strictness, yet if in any case it be for the clear advantage of the Indians to depart from those rules, the departure ought, without hesitation, to be sanctioned."

We believe that the period has now arrived when the Government should exercise such an authority, and in cases where the Indians obstinately refuse to accede to any terms of surrender, we are of opinion that gentle means of coercion might be applied without prejudice to their real interests.

We therefore submit to Your Excellency, in case the Imperial Cabinet decline to continue even a modified grant for the support of the Indian Office, the propriety of obtaining from the Colonial Legislature an Act authorizing the Indian Department to deal with the unpatented reserves in Upper Canada in the manner proposed above, namely, to oblige the rightful occupants to accept lots of the sort previously described, and to cede the remainder to the Province in the terms we have detailed.

The Island of Manitoulin is an Indian reserve, and as such comes within the scope of the various Acts affecting Indian lands. We conceive, therefore, that there would be no infringement of any existing rights in establishing such a system as this. The other reserves at Garden River and Batchewanaung Bay may require a different course, but before touching on them we consider it advisable to notice some other points which have been enlarged upon by Messrs. Hannipeaux and Ferard. We allude first to the laws which prohibit the sale of intoxicating liquors to the Indians. A point which concerns so nearly the vital interests of this people, and the success of any measure adopted for their amelioration cannot be deemed unworthy of serious consideration.

There is another subject brought prominently forward by the clergymen at Wikwemikong which we do not feel at liberty to pass over in silence. We mean the division of the island among the different denominations.

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It would appear, under the first formal reservation of the Island for the Indians, that no stipulation was inserted in the treaty respecting the division of the island between the Roman Catholic and Reformed Religions and the Pagans.

It is said, however, that, as a matter of prudence, a partition of the island was agreed upon, whereby one section was allotted to the Church of England, another to the Catholic Church, and the remainder was considered a wilderness wherein the heathen might wander.

There is no analogous case within our experience where an Indian reserve has been so apportioned, and we do not see any reason in this instance for restricting more than elsewhere the meritorious exertions of any Christian denomination in reclaiming the savages from Paganism.

We now turn to consider the situation of the Garden River and other principal reserves of 10 the north shore of the upper lakes. * * *

We now respectfully submit our report to Your Excellency in the full assurance that the claims of this hapless and interesting portion of Her Majesty's subjects will receive full consideration.

R. T. PENNEFATHER, *Supt.-Genl.*,
FROOME TALFOURD,
THO. WORTHINGTON.

APPENDIX No. 28.

Extract from Report of the Rev. MM. Hanipaux and Ferard upon the state of the Great Manitoulin Island, and upon that of the Nomadic Bands or Tribes on the Northern Shore of Lake Huron.

20

GREAT MANITOULIN ISLAND, August, 1857.

Article 1st.—Our opinion of the Act or Bill for promoting the gradual civilization of the Indian Tribes in this Province. Approved 10th June, 1857.

The aim of the Canadian Government, so far as we can understand it from the Bill above mentioned, and from what was told us by Mr. Commissioner Worthington, is as follows:—

Until now the remains of the ancient Indian tribes or bands had occupied large tracts of reserves on the north shore of Lake Huron, lying between Penetanguishene and the Bruce Mines. This territory in the hands of the Indians has until now remained uncultivated and useless. The continued and irresistible march of civilization having been directed in that quarter, encountered a formidable obstacle in the sterile occupation of these lands by the Indians. The interest of civi- 30 lization therefore absolutely required that this obstacle be removed, without however, in any way trespassing upon the rights of justice or of humanity. This has been for some years past the aim of the Canadian Government in offering to purchase from the different bands or tribes their reserves, and then making over to them the Great Manitoulin Island, recommending them to inhabit and cultivate it, guaranteeing to them with certain privileges, its entire possession, to the complete exclusion of all strangers. A large number of the Indians obeyed the paternal wishes of the Government and settled on the Island. It is our intention, in a subsequent article, to shew clearly and distinctly their present condition. A number of these bands however refused to profit by the advantages offered to them, and preferred their erratic mode of existence in the woods to a more civilized life. The Government tolerated this. But the onward and irresistable advance of 40 civilization will not admit of matters remaining in their present state, with reference to these nomadic bands. Their reserves will have to disappear to make room for the wants of civilization. It is evident and just that the interest of individuals must make way for the public good. The intention of the Government is to purchase the reserves and apply the proceeds for the benefit of

the Indians ; whence arises the important question, what is to be done with these Indians? The dictates of justice and of humanity do not admit of the supposition that it is intended, in the inferior and degraded state in which they are, to abandon them to ruin and utter extinction. This, therefore, must be the aim of the Government, to send all these remains of Indian bands or tribes to Manitoulin Island.

Manitoulin Island, which extends from the east to the west at the head of Lake Huron, is 135 miles long, and varies in breadth from 20 to 25 miles.

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(Schedule.)

10 Shewing the distribution of the area of land set apart and appropriated under the Statute 14 & 15 Vict. cap. 106, for the benefit of Indian Tribes in Lower Canada :

COUNTY.	TOWNSHIP OR LOCALITY.	NO. OF ACRES.	NAMES OF INDIAN TRIBES.
Ottawa	Lake Temiscamingue	38,400	Nipissingues, Algonquins and Outaouais.
	Maniwaki or River Désert	45,750	Têtes de Boule, Algonquins and Nipissingues.
Megantic	Coleraine	2,000	Bécancour Indians.
Leinster	Doncaster, North River	16,000	Iroquois of Caughnawaga and Two Mountains.
20 Portneuf	La Tuque	14,000	Têtes de Boule, Algonquins and Abenaguais of Bécancour.
	Rocmont	9,600	Hurons.
Rimouski	Viger	3,650	Amalicités.
Bonaventure	Mann	9,600	Micmac.
Saguenay	Peribouka	16,000	Montagnais of Lake St. John and Tadoussac.
	Metabetchouan	4,000	Montagnais, Tadousacs, Papinachois, Nauthapi, and other nomadic tribes in the interior of the Kings' Post.
	Manicouagan	70,000	
	Total	230,000	

30 CROWN LAND DEPARTMENT,
QUEBEC, 8th June, 1854.

E. F. FLETCHER,
For the Commissioner of Crown Lands.

[Two columns headed "Description of the Boundaries," and "Remarks," respectively, omitted from the above Schedule.]

APPENDIX No. 35.

SURRENDERS OF INDIAN LANDS IN UPPER CANADA.

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No.	DATE OF SURRENDER.	INDIANS SURRENDERING.	QUANTITY IN ACRES.	SURRENDER, WHERE SITUATED.	TO WHOM AND FOR WHAT PURPOSE.	CONSIDERATION.	REMARKS.
1	1781, May 12	Chippewas ..	Not estimated	Island of Michilimackinac.	Lieut.-Gov. St. Clair, Geo. III.. Ny. C.	£5,000 0 0	York Currency, £2,500.
5	1795, May 19	" ..	28,000	Land, water and islands, Penetanguishene, Nottawasaga and Saugeen Bay.	" Cy	101 0 0	10
6	1796, Sep. 7	" ..	132,000	North side of the Thames, about 19 miles above the Delaware village to the upper fork adjoining Oxford.	" M. C	1,200 0 0	
7	1796, Sep. 7	" ..	88,000	Chenail Ecarté	"	800 0 0	
11	1798, Aug. 8	" ..	.....	Island of St. Joseph, 120 miles circumference.	"	1,200 0 0	20
16	1815, Nov. 17	" ..	250,000	Kempenfeldt Bay, on Lake Simcoe, to Lake Huron.	No island surd..... Geo. III., C. H. C.	4,000 0 0	
18	1818, Oct. 17	" ..	1,592,000	Huron Tract (Huron District)	" ..	20,000 0 0	£1,200 Annuity
20	1818, Nov. 5	" ..	1,951,000	Home District, Lake Simcoe, commencing at Township of Rawdon.	" ..	12,000 0 0	740 "
	1819, Mar. 9	" ..	552,000	North of River Thames.	" ..	10,000 0 0	600 "
	1822, July 8	" ..	580,000	Long Wood Tract..	" ..	10,000 0 0	600 "
	1827, July 10	" ..	2,200,000	London and Westminster District.	" ..	18,500 0 0	1,100 "
			7,373,000	Acres. Consideration :—	£77,801—2½d per acre		£77,801 0 0
3	1792	Mississagas ..	3,000,000	Commencing 4 miles west of Mississaga Point.	Gov. Simcoe, Geo. III	1,180 7 4	40
8	1797, Aug. 8	" ..	3,450	Burlington Bay, Lake Ontario.	" ..	75 2 6	
13	1805, Aug. 1	" ..	250,880	Toronto purchase ..	" ..	0 10 0	
14	1806, Sep. 6	" ..	85,000	Home District, commencing east bank Etobicoke.	" ..	1,000 5 0	
17	1816, Oct. 17	" ..	428	Township of Thurlow.	" ..	107 0 0	
19	1818, Oct. 28	" ..	648,000	Mississaga Tract, Home District.	" ..	8,500 0 0	50
23	1820, Feb. 8	" ..	2,000	E. on the Credit Reserve.	" ..	500 0 0	
27	1820, Nov. 28	" ..	2,748,000	Midland and Johnston District.	" ..	11,000 0 0	
			6,737,758	Acres. Consideration :—	£21,913 4 10—¾d. p.a.		21,913 4 10
2	1790, May 19	Ottawas, Chippewas, Pottawatomies and Hurons of Detroit.	2,000,000	Commencing at the mouth of Catfish Creek, 10 miles east Port Stanley, on Lake Erie, District of Hesse.	Geo. III	1,200 0 0	60
12	1800, Sep. 11	" ..	1,078	Huron Church Reserve.	.....	300 0 0	
			2,001,078	Acres. Consideration :—	£ 1,500 0 0—3-16d. [per acre.]		1,500 0 0
47	1836, Oct. 25	Moravians ..	26,000	Township of Zone.	2,500 0 0—2s. [per acre.]	2,500 0 0	2,500 0 0
	1836, Aug. 9	Saugeen	1,500,000		21,000 0 0—3½d. [per acre.]	21,000 0 0	21,000 0 0
			16,137,836	Acres	£124,714 4 10—1½d. [per acre.]		£124,714 4 10
		Ojibewas		Lake Superior .....	.....		500 0 0 70
		"		Lake Huron		600 0 0

4.—INDIAN POLICY OF ONTARIO AND QUEBEC AS COMPARED WITH THAT OF
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ANNUAL REPORT ON INDIAN AFFAIRS FOR THE YEAR ENDING JUNE 30TH, 1872.

*The Honourable Joseph Howe, Secretary of State for the Provinces to the Governor-General.**

MAY IT PLEASE YOUR EXCELLENCY :

I have the honour to enclose, for Your Excellency's information, a copy of the Deputy Superintendent's Report, with documents annexed, showing the condition of Indian affairs throughout the Dominion, and the progress made within the year to carry on the work of civilization.

In the Provinces of Ontario and Quebec—where for a long period, efforts, honourable to the public men of both, have been persistently made, where the clergy of all denominations have zealously co-operated, where valuable lands have been sold and large funds accumulated—the work of the Indian Department is easily managed by correspondence and by personal intercourse with the chiefs, who often come to Ottawa for consultation with the Superintendent-General, or who can be easily visited, when special missions are required, either by myself or by officers of the Department.

In those Provinces many of the bands exercise nearly all the powers of municipalities, and are being rapidly trained to self-government.

They maintain their own agents, doctors, and schoolmasters

It is a good deal to say, that in the schools maintained by these people, or by the religious bodies who labor for their improvement, upwards of two thousand Indian children were trained last year

In Nova Scotia and New Brunswick, I regret to have to acknowledge that much less has been done. The Micmacs and Milicites of those Provinces were fine races, and the few thousands of them who remain often illustrate in single families, or by splendid specimens, the physical proportions and mental resources which a century ago made them formidable and respected. Ashamed of the condition to which the Micmacs had been reduced in my own Province by the neglect of the Government and the indifference of the whites, when I first went into Lord Falkland's Government in 1840, I had an Act passed making partial provision for the Micmacs, and gave the leisure of two years of life to their service. I traversed the country, visited their villages, slept in their camps, had their lands surveyed and divided, educated some of their children, and without reward or the hope of it, did my best to set an example of devotion to a good work which the pressure of other duties shortly after compelled me to relinquish. The grants were continued down to Confederation, but were never increased. They were faithfully distributed by Samuel P. Fairbanks, Esq., for many years Commissioner for Crown Lands, who protected the Indian Reserves, and divided the annual appropriations. He was unable to give much personal superintendence to the band, and gradually the semi-annual distribution took the form of eleemosynary gifts, calculated to foster habits of idleness and dependence, rather than of bounties to encourage industry, thrift, and social elevation. On coming into this Superintendency, my first care was to increase the grants annually voted for Indian affairs in the Maritime Provinces, to appoint Local Agents, and to change the system and objects of expenditure; in short, to introduce, so far as the funds would enable me, some faint resemblance to the Canadian system. Up to this time the results are encouraging, and although I regret that the state of my health will soon compel me to relinquish the oversight of the work, I trust it will not be neglected by those who may come after me, and who ought never to forget that the crowning glory of Canadian policy in all times past, and under all administrations, has been the treatment of the Indians.

All of which is respectfully submitted.

JOSEPH HOWE.

INDIAN POLICY OF THE RESPECTIVE PROVINCES PRIOR TO CONFEDERATION—THE PROPERTY
HELD BY THE INDIANS THEREIN.

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*Report of the Minister of the Interior (Canada), 31st January, 1876.**

The treatment of the Indians in the several Provinces has unfortunately been far from uniform. In some of the Provinces the Indian policy may have been partially shaped before they came under the British Crown; but as there was sufficient opportunity after the cession to have adopted a more liberal policy, it is not very apparent why the Indians were more liberally treated in Upper Canada than in any of the other old provinces. It is a matter for gratulation that a policy as liberal as that adopted in Ontario is being pursued in the North-West Territories, and that the Indians there, provided they turn to the cultivation of their extensive Reserves or the 10 raising of stock, may become prosperous and contented.

In the following summary of property held by the Indians in the older Provinces, it is not to be understood that each Indian is possessed of the *per capita* amount stated. The statement is given to show the comparative position, provincially, of the Indians who have forsaken nomadic habits. In Prince Edward Island the Indians have no reserves from the Crown, the lands which they occupy being set apart for them by the benevolence of the Aborigines Protection Society, and the liberality of private individuals.

PROVINCE.	PERSONAL PROPERTY.				REAL ESTATE.				INVESTED CAPITAL.			
	Total.		Per Capita.		Total.		Per Capita.		Total.		Per Capita.	
	\$	c.	\$	c.	\$	c.	\$	c.	\$	c.	\$	c.
Ontario	317,543	00	20	75	5,921,842	00	385	93	2,707,835	11	210	00
Quebec	146,375	00	13	54	1,344,055	00	124	35	176,017	65	27	28
Nova Scotia	15,442	00	8	03	32,300	00	17	47	.....	.....	.....	.....
New Brunswick	8,676	00	5	56	329,475	00	211	07	1,119	68	0	79
Prince Edward Island	1,198	00	3	97	6,036	00	19	98	.....	.....	.....	.....
	489,234	00	.....	.....	7,633,708	00	.....	.....	2,884,972	44	.....	.....

	STOCK.						GRAIN, &c.					
	Horses.	Cows.	Sheep.	Pigs.	Oxen.	Young Stock.	Corn, Bushels.	Wheat, Bushels.	Peas, Bushels.	Potatoes, Bushels.	Oats, Bushels.	Hay, Tons.
Ontario	2,169	1,618	1,397	3,832	499	1,765	36,039	42,710	21,858	68,894	75,235	4,883
Quebec	530	709	82	636	9	113	3,145	1,739	3,292	18,885	11,397	2,951
Nova Scotia	18	27	11	22	16	42	33	115	17	5,120	490	915
New Brunswick	25	31	78	50	5	12	22	210	2	2,720	2,125	210
Prince Edward Island	1	4	.....	.....	.....	4	5	30	.....	847	69	9

The personal property which Indians have accumulated, the crops which they raise, and the progress of education amongst them, are the best evidences of how far, as a people, they may be entrusted with the management of their real estate and vested funds. The value of the real estate 20 which some bands possess in Ontario does not result from their thrift, as these lands in most cases have become valuable not so much from the industry of the Indians as from their proximity to towns, villages, or prosperous settlements of whites.

* Sess. Papers, Can., 1876, No. 9, pp. v, vi.

5.—PROVINCE OF NOVA SCOTIA.

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Scotia.*Extracts from the Minutes of the Executive Council of Nova Scotia.*

22ND DECEMBER, 1819.

Present—His Excellency the Earl of Dalhousie and ten Counsellors.

His Excellency said that it had been represented to him that a number of Indians were very desirous of fixing their abode; and he thought that many of them might now be induced to do so, if lands, in convenient places, were to be allotted for their use, as their means of subsisting themselves, once so sufficient, have been for some time, in consequence of the increasing cultivation of the forest, daily diminishing, and are now, in most parts of the Province, almost entirely destroyed.

10 To encourage this disposition to settle, His Excellency, with the advice of Council, was pleased to determine that lands should immediately be laid off for them in each county in the neighbourhood of those places where they chiefly resort, in lots not exceeding 1,000 acres each, and granted in trust, for their use, to the magistrates resident near the lands so to be granted. With this intention His Excellency directed the Surveyor-General to submit to him a plan of the situations the best adapted for the purpose.

Certified, October 24th, 1885.

W. S. FIELDING,
Provincial Secretary and Clerk of Council.

8TH MAY, 1820.

Present—His Excellency the Earl of Dalhousie, Lieut.-Governor and Commander-in-Chief, and ten Counsellors.

In pursuance of the commands of His Excellency in Council, the Surveyor-General reported

20 the reservations of land made for the use of the Indians, which report was read, approved and ordered to be entered on the minutes. It is as follows:—

No. 1. One thousand acres in the County of Sydney, part of which is situate at Pomket, containing 880 acres, the remainder at Antigonish at the confluence of the river which empties into that harbour. This very valuable tract is called and known by the name of the Indian Garden, and is a place of great resort for these people; it contains 120 acres, and in both tracts one thousand acres, as delineated on the

No. 2. One thousand acres in the County of Cumberland, situate on the Shinimicas River, and is abutted and bounded according to the annexed plan.

NOTE.—Near this tract at the entrance of the harbour of Pugwash, three valuable situations

30 were reserved for the use of the Indians, but in consideration of supplies of blankets, ammunition and provisions supplied by some of the inhabitants in time of need, His Excellency, the then Lieut.-Governor and Commander-in-Chief, gave his permission for the Indians to sell their right to these lands, which they did and they were by his warrant granted to the purchasers as a remuneration for the relief they afforded these poor people in the hour of distress.

No. 3. One thousand acres of land situate on the western side of the Grand Shubenacadie Lake and is abutted and bounded according to

No. 4. This tract contains eleven hundred acres and was surveyed for the use of the Indians during the administration of the late Lieut.-Governor Sir George Prevost, Bart. Here the Indians have made considerable improvements, and raise potatoes, corn, &c., and, I believe, from report,

40 have a stock of cattle. This tract is situate within the County of Hants, near the western bank of the Shubenacadie River and is abutted and bounded according

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No. 5. This plan is a faithful representation of two tracts of land set apart for Indians. The one marked A was laid out to them many years ago and afterwards granted to them. It is situate at the head of St. Margaret's Bay in the County of Halifax, and commands a valuable alewive fishery ; it contains five hundred acres. It has been sought after with avidity by the German settlers, and I believe they have succeeded in part in the purchase of this land from the Indians, and having thus acquired a right to the soil, the Indians are at perpetual variance with them about this land and fishery. Had the land been granted in trust, solely and exclusively for the Indians, and not transferable, those differences, with others of a similar nature at Soniac, Mahone Bay, Eel Brook, Pugwash, and other parts of the Province, might have been avoided, and these valuable situations secured forever for the support of those people. The tract marked B on this plan is situate on Ingram's River on the western side of St. Margaret's Bay, and is a great resort for the Indians in 1) the fishing season ; it contains three hundred acres and is abutted and bounded according to the annexed plan ; these two tracts, together with the land reserved on the west side of the Grand Shubenacadie Lake, contain in the whole one thousand eight hundred acres.

No. 6. These tracts are situate on Gold River within the County of Lunenburg, and are abutted and bounded according to the

No. 7. One thousand acres of land situate on Port Medway River, within Queen's County, and abutted and bounded according to the

No. 8. One thousand acres of land to be reserved at the Forks of the Clyde River, *alias* Cape Negro River. This spot is a favourite resort of the Indians, the soil is rich and the river abounds with fish. The tract may be thus described, to prevent any interference with the reservation:—To 20 commence at the point where the river separates into two branches, and to follow up the courses of the western bank of the eastern branch and the eastern bank of the western branch up stream until a right line to be drawn by compass east and west from one branch to the other shall comprehend the quantity required of one thousand acres.

N.B.—In this county are places of resort for the Indians, particularly at Eel Bay near the Tusket River, where they take eels in great quantities, but as these lands are private property, although the Indians had the use and occupation of them from a very ancient date, it might be advisable to recommend that a law pass to protect them in their burial ground, the spot where the cross is placed, and three small isolated tracts on the Island along our coast, which they annually frequent ; perhaps one acre for these purposes would answer in each of these situations and not 30 affect the rights of others ; and if in all future grants of land a reservation was made in favour of these people of some portion of it, it would be an act of humanity and justice, and the time may come when these people may be allowed, from dire necessity, to our domestic arts, and the fishing will form their chief dependance for support.

No. 9. One thousand acres of land in the County of Annapolis, situate at the head of Bear River, and is abutted and bounded according to the

No. 10. One thousand acres of land within the County of Hants, abutted and bounded according to the

His Excellency, with the advice of Council, then determined that these reservations should not be actually granted in the manner proposed on a former meeting of Council ; but that they should 40 be placed for the benefit of the Indians, to whom they are to be hereafter considered as exclusively belonging, in the trust of the Right Rev. Edmund Burke, Bishop of Sion, and his successor in office, and of the Sheriff and *Custos Rotulorum* of the Counties in which they are respectively situate. The Surveyor-General was directed to furnish the Secretary of the Province with a particular description of such reservations with the plans of the same, to be by him first entered in the License of Occupation Book, and to be then transmitted to the gentlemen in whose care they are placed, with a letter requesting them to accept of the Trust confided to them, and to use their best endeavors in encouraging the settlement of the Indians.

Certified, October 24th, 1835.

W. S. FIELDING,
Provincial Secretary and Clerk of Council. 50

*From the Report of the Commissioner of Crown Lands, Nova Scotia, 1866.**

THE NUMBER OF ACRES OF LAND WITHIN THE PROVINCE, DISTINGUISHING THOSE GRANTED AND
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COUNTIES.	NO. OF ACRES.	TOTALS.	GRANTED.	UNGRANTED.
Annapolis	844,928			
Antigonish	378,099			
Colchester	861,844			
Cumberland	862,726			
Digby	629,913			
10 Guysborough	890,752			
Halifax	1,618,150			
Hants	777,824			
King's	825,446			
Lunenburg	756,998			
Pictou	784,377			
Queens	668,160			
Shelburne	746,720			
Yarmouth	420,160			
		11,065,597	5,266,144	5,799,453
Cape Breton	632,960			
20 Inverness	785,920			
Richmond	288,640			
Victoria	757,120			
		2,464,640	948,800	1,515,839
Grand Total		13,530,237	6,214,944	7,315,282
GRANTED ACCORDING TO OFFICIAL RETURNS.				
Nova Scotia.....	5,266,144			
Cape Breton.....	1,062,327			
	6,328,327			

30

SAMUEL P. FAIRBANKS,
Commissioner Crown Lands.

Crown Land Office,
1st October, 1866.

Report of the Commissioner of Indian Affairs.†

CROWN LAND OFFICE, 31st Dec., 1866.

SIR,—Since my last Report to the Government, as Commissioner of Indian Affairs, nothing very important has occurred to require any lengthy communication. The laws on the Statute Book, together with the Reports of Legislative Committees, and the known policy of the Government, have been my guide in conducting the business of the Indian Department; and I believe if the
40 efforts made to improve the condition of the Indians generally, and to relieve their wants, fail to accomplish the purpose, it is neither the fault of the Government or their officers that they continue in their unsettled and unthrifty habits.

A brief review of the measures in operation which concern their interest and welfare will not, I think, be out of place at a period when important changes in these North American Colonies are in contemplation, and which are designed, among other arrangements, to "include the Indians and

* Jour. Ho. Ass., Nova Scotia, 1867, App. No. 5, p. 6.

† *Ibid.*, App. No. 6, pp. 1, 2.

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lands reserved for the Indians ;” and I will therefore proceed : First, with a brief notice of the lands which have been secured to them, and the general management of them ; second, shew the estimated numbers within the Province generally ; and thirdly, the charitable provision annually made by the Legislature for the aged, sick, and destitute, and how the charity is distributed ; accompanying these several divisions with necessary explanations.

I find in the earlier records of the Crown Land Department, that various tracts of land, principally in those parts of the Province where the Indians chiefly resorted, were set apart for their benefit. These lands with few exceptions, were found, at a very late period, unoccupied and unimproved by the Indians ; a small portion of them, however, were settled upon by some of the white inhabitants, ignorant of the reservation, who had made them of value by their labour, and occupied them as a home. Many instances of similar intrusion and settlement upon the Crown Lands were also found to exist ; and after grave consideration the Legislature resolved not to disturb those settlers, but to give them a title to what they possessed, upon payment of a fair valuation of the land in its natural state ; the proceeds of the Indian lands to be invested at interest for their benefit, to provide stock and agricultural implements whenever any family should resolve to abandon their roving habits and devote themselves to the cultivation of the soil. This law has been acted upon ; the lots occupied were sold at a fair valuation, and the proceeds are at the credit of the Indians for the above purpose, being one branch of the Provincial liabilities. As regards the remainder of the lands, the title is by law vested in the Commissioner of Crown Lands, in trust for the Indians. They have been, with scarcely an exception, surveyed, although some of the lots may require the lines to be renewed. No further sale is contemplated. 10

I have prepared and annex hereto an abstract, shewing the extent of these reserves in the several counties of the Province. Those in Cape Breton are very favourable for settlement ; so are some of the tracts in Nova Scotia proper.

It is very difficult to ascertain the precise number of Indians throughout the Province, owing to their frequent change of abode. I have obtained returns from the agents who distribute the clothing, as well as from the deputy surveyors in connection with the Crown Lands Department ; and from a fair estimate and comparison of these returns, I have arrived at the conclusion that their numbers exceed fifteen hundred. The abstract annexed will show the different counties where they resort, with the respective numbers. 30

There has been no want of exertion to induce the Indians to settle and cultivate the soil for their support. Each head of a family has had the offer of a 100 acres of land, to be secured to them in perpetuity, upon the sole condition that he will occupy and improve it ; prohibiting, however, the sale of it to any other but one of his own tribe, unless with the special sanction of the Governor in Council. A few have accepted the offer : lots have been surveyed and apportioned among ten families in Cumberland. Sixteen Indians have very recently applied for lots in the County of Victoria, and surveys have been made, with the same object, in other counties. These examples may lead to other applications. Some have not waited for a title, but have taken possession and gone to work. These possessions will be respected. I have lately heard of instances where their industry has been well rewarded ; and although I have not much to report that is very encouraging, I am not without hope that these examples may have a good effect upon others. 40

I have the honor to be, Sir,

Your obedient servant,

SAMUEL P. FAIRBANKS,

Commissioner.

To the Honourable the Provincial Secretary.

Abstract referred to in the preceding Report.*

ESTIMATED NUMBER OF ACRES.

	COUNTIES.	ACRES.
	Annapolis.....	1,400
	Antigonish ...	525
	Cumberland.....	1,000
	Hants.....	2,100
	Halifax.....	900
10	Lunenburg.....	2,000
	Queen's.....	2,175
	Shelburne.....	1,000
	Pictou.....	50
		<hr/>
		11,150
	<i>Island of Cape Breton.</i>	
	Mire, Back Lands.....	600
	Wagamatcook.....	700
	Escasoni	4,000
	Whykokomah.....	1,500
	Malagarvacht	1,500
20	Chapel Island	1,280
		<hr/>
		9,580
		<hr/>
	Nova Scotia Proper.....	Acres, 11,150
	Cape Breton.....	Acres, 9,580
		<hr/>
		20,730
		<hr/>

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SAMUEL P. FAIRBANKS,

Commissioner for Indian Affairs

31st December, 1866.

Report of Committee on Indian Affairs, 26th April, 1867.†

The Committee on Indian Affairs have had before them the accounts of the Chief Commissioner, 30 with the vouchers for the same, and after being examined, find them all correct. . . .

By the Imperial Act of Union, the Indians of Nova Scotia come under the control and management of the General Government; and your Committee would respectfully and earnestly recommend that the usual grant for Nova Scotia be continued, and that a local commissioner be appointed, in order that the usual quantity of blankets and great coats be provided for the Indians of Nova Scotia.

By an elaborate statement submitted by the Commissioner, it appears that the sum of \$1,790.77 is now on hand to the credit of the Indians, being proceeds of a sale of a portion of their reserve lands; and besides this there is still a large amount due from the sale of said lands, principally from the Counties of Inverness and Victoria. Your Committee think it but justice to the Indians 40 of Nova Scotia that not only the balance on hand, but also the amount due, should be reserved

* Journals Ho. Ass. Nova Scotia, 1867, Appendix No. 6, p. 4.

† *Ibid.*, App. No. 39, p. 1.

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and set apart solely for their use and benefit. The Act of 1859, "Concerning Indian Reserves," states that the money paid into the Receiver General's office is to be on interest at the rate of six per cent.

It is scarcely necessary to remark that every encouragement has been given to the settlement of the Indians on the lands reserved for them, and if they do not avail themselves of the advantages thus offered, it is owing to their own nature and habits, and not from any want on the part of the Commissioner to afford them every reasonable inducement and facility to occupy and improve lands which are now ready for them to occupy and possess.

6.—PROVINCE OF NEW BRUNSWICK.

(6) New
Brunswick.

*The Lieutenant-Governor of New Brunswick to the Commissioner of Indian Affairs, 1841.** 10

FREDERICTON, N. B., 23rd June, 1841.

SIR,—I am to acknowledge your letter of the 20th inst., and to state that His Excellency approves of the plan you have in contemplation of visiting the various settlements of the Indians in succession, and is desirous that you should put yourself in communication with the other Commissioners for Indian Affairs in the different parts of the Province, and visit their outlying settlements, and he will be prepared to recommend the reimbursement of any moderate charges incurred by you for travelling expenses.

The Lieutenant-Governor thinks it may be desirable to point out to the Indians that it is in contemplation to open schools in situations convenient to their settlements, and to allot them lands in those situations for their subsistence; also to establish loan funds, whereby they and others 20 will be enabled to obtain the means of providing themselves with root houses, and seeds and agricultural implements—which loans will be repaid by small instalments; that the object being to admit them to a participation in all the advantages conferred on their fellow subjects, the descendants of Englishmen, they will have the same opportunities of acquiring wealth, and their children the same means of acquiring the knowledge which will raise their condition.

I am directed further to inform you, that besides the allotment of lands for their individual occupation, it is contemplated to protect their interests in what are commonly called the "Indian Reserves"; and as the product of those lands in timber, etc., will be held for their benefit generally, it is not desirable that the Indians should enter into separate engagements with individuals for the right of occupancy or of lumbering—in which it is to be feared that advantages are not 30 unfrequently taken of them by improper persons, to the serious prejudice of the whole; under this plan, each person or family having lands for themselves, will have free disposal of their own allotment, and a general interest in the remainder, and the funds arising therefrom will be applied to objects for the benefit of themselves and their children.

A plan of the Tobique lands has been ordered, and will be transmitted to you as soon as prepared.

I have, &c., &c., &c.,

A. READE.

M. H. Perley, Esquire, &c., &c., &c.

* App. to Jour. Ho. Ass., New Br., 1842, p. cxxii.

*Report of the Surveyor-General of New Brunswick on Indian Reserves, 1841.**JOINT
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CROWN LAND OFFICE, 29th June, 1841.

SIR,—In obedience to Your Excellency's commands, I have now the honour to transmit the following report, schedule and sketches, showing the extent and situation of the reserved Indian lands in New Brunswick, stating also at what dates and for what particular tribes of Indians the said reserves were respectively made.

Fourteen tracts containing sixty-one thousand two hundred and seventy-three acres have been reserved in this Province for their benefit, but the title to these lands still remains in the Crown. Leave only "to occupy and possess during pleasure," having been given to the Indians, they cannot at present, of themselves, prevent the encroachments which have now, to a considerable extent, been made by unauthorized persons, who have, in most cases, against the will of the Indians, settled upon and continue to retain forcible possession of many parts of the best of their lands. Neither can they punish the trespassers, who continue year after year to plunder their reserves of the most valuable timber.

Indian Commissioners have been appointed by Government to expend the small sums of money which are annually granted by the Legislature for the relief of the Indians, but the law has not yet vested the Indian Commissioners with sufficient power to enable them to exercise authority over the reserves.

With a few exceptions only, the reserves have been established by minutes of Council, but their boundaries have never been properly ascertained, and but few of the side or rear lines have yet been surveyed, their exact situation therefore is imperfectly known, and they must continue liable to be interfered with, by those persons who obtain license from this office to cut timber on the adjoining Crown Lands, until their precise limits are defined by actual survey, and plans thereof filed in this Department.

For these reasons, the information contained in the annexed sketches is rather scanty, nor indeed can they be relied upon as being even so far strictly correct.

I have the honour to be, Sir,

Your Excellency's obedient and most humble servant,

JOHN S. SAUNDERS,

Surveyor-General.

To His Excellency the Lieutenant-Governor, &c., &c., &c.

Schedule Referred to in the Foregoing Report.†

Extent, and situation, and date of setting apart, of the Indian Reserves.

COUNTY OF NORTHUMBERLAND.

10,000 acres on both sides of the Little South-West, at its confluence with the North-West Miramichi—13th August, 1783.

* App. Jour. Ho. Ass., New Br., 1842, pp. cxxvi-vii. † *Ibid.*, p. cxxvii.

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3,033 acres on the north side of the North-West Miramichi, commencing opposite the lower end of Beobear's Point, and running up—10th January, 1789—for John Julian and the Miramichi Tribe of Indians.

8,700 acres on the north-east side of the North-west Miramichi, opposite the Sevogle Streams ; also

750 acres on the north side of the North-west Miramichi, opposite the Little South West—5th March, 1805—for John Julian and the Micmac Tribe of Indians.

240 acres, Burnt Church Point, Miramichi Bay ; also

1,400 acres on the north side of Burnt Church, above Pointe au Moreau, Miramichi Bay ; also

9,035 acres on the Tabusintac River, from Cowaseget's Creek, up five miles, and back from 10 each side one and a half miles, including 10 acres at M'Gray's Point, and 25 acres at Ferry Point—18th February, 1802—for Indian natives inhabiting the Tabusintac District.

COUNTY OF KENT.

4,600 acres on the north side of the Richibucto River, from William Harley's grant to Bass River—9th September, 1805—modified the 25th February, 1824—for Richibucto Indians.

3,500 acres on the north side of the Shebuctouche River, from Dominic Robicheau's grant up to the upper line of lot No. 25, above Mill Creek—1st November, 1810—for Shebuctouche Indians.

COUNTY OF CARLETON.

16,000 acres on the east side of the River Saint John, from the Tobique Rocks to opposite the mouth of the Arestook, and embracing both sides of the Tobique for about three miles up—4th 20 September, 1801—for Neville Bernard and his tribe of Milicete Indians.

COUNTY OF GLOUCESTER.

2,600 acres on the south side of the Pokemouche River, from Waganchitz Brook, up three miles—surveyed in August, 1811, under an Order in Council of May, 1804—for John B. Pomainville and 16 others, Indians of Pokemouche River.

1,000 acres, being 500 on each side of the Nepisiquit River, between the Pabineau and the Strong Waters, occupied by the Restigouche Indians, but no record appears.

COUNTY OF SAINT JOHN.

15 acres, the three Islands, called the "Brothers," near Sandy Point, Kennebecasis Bay—19th September, 1838—for the Milicete Indians. Held under the Lieutenant-Governor's License of 30 Occupation.

Total,—61,273 acres.

*Speech of the Lieutenant-Governor of New Brunswick on the opening of the Legislature, 19th January, 1842. **

My attention having been drawn to the condition of the Indian tribes, and the situation and extent of the valuable lands reserved for them, I have instituted inquiries which have been

* Journals Ho. Ass., New Br., 1842, p. 6.

zealously prosecuted, and from the reports which have been made to me, I am gratified to find that no material obstacles exist to the introduction of measures for their social improvement. To facilitate the settlement of the Indian reserves, and the domains of the Crown, some Legislative provision will be necessary.

The formation of Indian villages, and the establishment of schools in them, have been recommended.

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*Return of Reserved Lands and of Indian Population in the Province of New Brunswick, April 20th, 1842.**

	Total extent in acres of Indian Reserved Lands.....	62,223
10	Total number of persons who have settled on them, whose cases are reported on by Mr. Perley	118
	Total number of Indians in the Province, male and female.....	1,377

[See also the Report of the Indian Commissioner respecting the Indian Reserved Lands, etc., pp. xcii-cxxi of Appendix to the Journals Ho. Ass., 1842, and particularly the portion commencing at p. cx.]

Speech of the Lieutenant-Governor of New Brunswick on the opening of the Legislature, 31st January, 1843. †

The abundant harvest of the last season with which Providence has blessed the labours of the people, as well in the United Kingdom as in these Colonies, has demanded the expression of our thankfulness. The relief it has afforded, under the depression to which the country has been subject, has drawn attention to the agricultural resources of the Province. I have taken advantage of this disposition, by encouraging the formation of extensive settlements on the Crown Lands, under regulations calculated to prevent the evils attendant on the desultory occupation of them. I recommend to you that Legislative provision should be made to check the illegal occupation of the Crown Lands, and also of the Indian Reserves, and to secure the revenue derivable from them.

* App. Jour. Ho. Ass., New Br., 1842, p. cxxviii.

† Leg. Col. Journals, New Br. 1841-3, vol. 5, p. 501.

Reserved Indian Lands in the Province of New Brunswick, 1858.

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Brunswick.Schedule of Reserved Indian Lands in the Province of New Brunswick, exclusive of small portions
which have been granted or surveyed for White Settlers.*

	Acres.	Estimated proportion cleared and partially cultivated by the Indians.	10
NORTHUMBERLAND.			
1. On both sides of the Little South-West Miramichi River, at its mouth.....	5,648	100	
2. On the north side of the N. W. Miramichi River at Oxford's Brook	2,537	150	
3. On the east side of the N. W. Miramichi River, opposite the Sevogle Stream and including the Point	7,788	10	
4. On the east side of the N.W. Miramichi River, opposite the Red Bank	100	10	20
5. Burnt Church Point, Miramichi Bay	240	100	
6. On the north side of Burnt Church River	1,400	.....
7. On the Tabucintac River, from Pine Island, running up on both sides.....	8,000	.....
8. South-West of Renous, Lot Y	40	3	
KENT.			
9. On the north side of the Richibucto River, and running up to Bass River	4,400	200	
10. On the north side of the Shebuctouche River, above and below Mill Creek	3,000	200	
VICTORIA.			
11. On the east side of the River Saint John, from the Tobique Rocks, running up the Arestook	16,000	150	30
12. East side of the River Saint John, below the grant to S. Herbert, near the mouth of the Madawaska River	840	40	
GLOUCESTER.			
13. On the south side of Pocomouche River	2,554	.....
14. On both sides of the Nepisiguit River, below the mouth of the Pabineau	1,000	5	
15. North side of Eel River, and south of the grant to R. Ferguson.....	400	.....	40
SAINT JOHN.			
16. The Three Islands called "The Brothers," near Sandy Point, Kennebecasis Bay.....	15	.....
WESTMORLAND.			
17. West side Aboushagan River, above Lot No. 4	250	10	
CARLETON.			
18. Lot at Meductic Point.....	450	15	50
YORK.			
19. Lot at French Village, Kingsclear	460	50	
Total	55,122	1,043	

CROWN LAND OFFICE, March 19, 1858.

JAMES BROWN,

Surveyor-General.

* App. Jour. Ho. Ass., New Br., 1857-8, p. cccclxxxiii.

*Report of the Crown Lands Department for the Year ending 31st October, 1866.**

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Fifty-nine thousand and sixty-six acres of the lands originally set apart for the benefit of the Indians in New Brunswick, which remain ungranted, or have been purchased by Government for them, are situated as set forth in Return, page 170. Of that quantity 2,746½ acres have been sold to "white" settlers, who have paid a part of the purchase money. About 9,300 acres are estimated to be occupied by "white" squatters, who have made no payment; and only about 1,000 in all are supposed to be cleared and cultivated by the Indians themselves.

(6) New Brunswick.

The "white" squatters are enabled, on application, under the 85th chapter of the Revised Statutes, to purchase and obtain titles; and such other portions of the Reserves, as are not likely to be hereafter required by the Indians, are also surveyed and offered for sale by auction whenever required. But the proceeds, in all cases, are paid over to the Provincial Treasurer, to account of the "Indian Fund," as are likewise the amounts received by the Commissioners for stumpage on lumber.

As the law only requires the Indian Commissioners to make returns of their doings to the "Governor in Council," no complete or continuous record thereof has been kept in this office, yet the Reserves are supposed to be under the general superintendence of the Surveyor-General, who also directs the surveys and prepares the titles for whatever lots are sold. An order was therefore lately passed in Council directing all Indian Commissioners making sales of Indian lands, or receiving moneys for stumpage, hereafter to make return in detail to this office of all such transactions, and remit the proceeds to the Provincial Treasurer.

Return above mentioned, of Indian Reserves in New Brunswick, 31st October, 1866.†

COUNTY.	SITUATION.	ACRES.
30 Restigouche	North side Eel River, at Gully.....	220
Gloucester.	South side Pocmouche River.....	1,495
do	On both sides of Nipisiguit River.....	1,000
Northumberland.....	Both side Little S. W. Miramichi River.....	8,124
do	At Oxford Cove, N. W. Miramichi River.....	2,682
do	At the "Big Hole," Miramichi River.....	8,188
do	Opposite Red Bank, Miramichi River.....	549
do	Burnt Church Point.....	240
do	North of Burnt Church River.....	1,400
do	On both sides Tabucintac River.....	308
do	S. W. Miramichi River, above Renous.....	40
Kent.....	North side Richibuctou River.....	4,400
do	North side Buctouche River.....	3,000
Westmoreland.....	West side Aboushagan River.....	250
40 Saint John	The "Brothers" Islands, Kennebecasis.....	15
Charlotte	At mouth Canoose River, St. Croix.....	100
York.....	Lot at Indian Village, Kingsclear.....	460
Carleton	Lot at Woodstock.....	200
Victoria.....	East of River St. John, at Tobique.....	17,663
do	Below Little Falls, Madawaska.....	722
	Total Acres.....	59,066

Of the above, 2,746 acres have been located to "White" settlers, who have paid a part of the purchase money.

ROBERT GOWAN,
Accountant.

CHARLES CONNELL,
Surveyor-General.

* App., Jour. Ho. Ass., New Br., 1866, p. xiii.

† *Ibid*, App. II, p. 170.

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APPENDIX.*Return of Indian Lands partly paid for in the County of Victoria.**

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RECORD.	PURCHASER.	ACRES.	SITUATION.	PRICE.	PAID.
11,070	Armstrong, Stillman	132	7 Tobique Reserve . . .	\$138 60	\$46 20
11,069	Beveridge, Benjamin	130	6 do	136 50	45 50
11,071	Larlee, Elijah	102	8 do	107 10	35 70
11,072	Larlee, Elijah	82	9 do	86 10	28 70
11,075	Taylor, James	155	14 do	162 75	54 25
11,076	Armstrong, Sutton	116	A do	121 80	40 60
11,078	Topham, Joseph	127	16 do	127 00	42 33
18,422	Kelly, Leonard	100	S. $\frac{1}{2}$ 30 do	200 00	50 00
16,423	Turner, Henry	100	35 do	200 00	50 00
16,424	Beveridge, Benjamin	100	N. $\frac{1}{2}$ 30 do	200 00	50 00
	Forbes, Alexander	100	N. $\frac{1}{2}$ 29 do	200 00	50 00
				\$1679 85	\$493 28

Andover, March 31st, 1867.

A. C. HAMMOND,

W. R. NEWCOMB,

*Indian Commissioners.**From the Report of the Surveyor-General.†*

ESTIMATED CONTENTS IN ACRES OF THE PROVINCE OF NEW BRUNSWICK, OCTOBER 31ST, 1867.

COUNTY.	GRANTED OR LOCATED.	VACANT.	TOTAL.
Restigouche	193,310	1,233,250	1,426,560
Gloucester	381,784	655,656	1,037,440
Northumberland	1,014,605	1,965,395	2,980,000
Kent	465,653	560,747	1,026,400
Westmoreland	675,512	202,928	878,440
Albert	308,812	124,748	433,560
Saint John	340,614	74,106	414,720
Charlotte	411,665	371,695	783,360
King's	733,293	116,697	849,920
Queen's	595,554	365,726	961,280
Sunbury	419,616	362,464	782,080
York	1,120,226	1,081,374	2,201,600
Carleton	518,221	181,779	700,000
Victoria	405,632	2,466,368	2,872,000
Acres	7,584,497	9,762,863	17,347,360

*Extract from the Report of the Surveyor General of New Brunswick to the Lieutenant-Governor,
for the year ending 31st October, 1867. ‡*

SURVEY OF THE TOBIQUE RESERVE.

A survey was ordered to be made of the lands, at the mouth of the Tobique River, reserved for the use of the Indians, which duty has been performed by Deputy Garden.

* App. Jour. Ho. Ass., New Br., 1866, p. 172.

† App. II. to Jour. Ho. Ass. New Br., 1868, p. 90.

‡ *Ibid.*, p. vi.

7.—PROVINCE OF PRINCE EDWARD ISLAND.

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Dominion.*(7) Prince Ed-
ward Island.

DISPOSAL OF THE SOIL OF THE PROVINCE BY THE BRITISH CROWN, 1767.

*(Extracts from Campbell's History of Prince Edward Island.)**

The whole island was, in 1767, disposed of in one day, with the exception of lot sixty-six, reserved for the King, and lots forty and fifty-nine,—which had been promised to Messrs. Mill, Cathcart, and Higgens by the Government, in 1764, in consideration of their having established fisheries, and made improvements on the Island,—and three small reservations intended for three county towns.

The Commissioners [Report of the Royal Commission respecting the question of land in Prince
10 Edward Island, 18th July, 1861,] remarked that the granting of a whole colony in a single day, in huge blocks of twenty thousand acres each, was an improvident and unwise exercise of the prerogative of the Crown.

The Indian claims were limited to Lennox Island, and to grass lands around it; and as it appeared by evidence that the Indians had been in uninterrupted occupancy of the property for more than half a century, and had built a chapel and several houses on the Island, the commissioners were of opinion that their title should be confirmed, and that this very small portion of the wide territory their forefathers formerly owned should be left in the undisturbed possession of this last remnant of the race.

INDIAN RESERVES OF THE PROVINCE.

20 *Report of the Deputy Superintendent-General of Indian Affairs (Canada), for the year ended 30th June, 1874.†*

This Province has but a small Indian population, who for the most part reside on Lennox Island, situated in Richmond Bay, on the north side of the Province.

The said Island was purchased in the year 1870, for the benefit of the Indians, by the "Aborigines Protection Society" of London, England. It contains about 1,300 acres, of which a fair proportion is available for agricultural purposes.

There is also a small reserve of 189 acres situated in Township 39, granted by the Provincial Government, in 1859, to trustees for the benefit of the Indians, in lieu of 20½ acres of land on the Morell River, which had been appropriated by the late Honourable Chas. Worrell, to some eight
30 Indian families and their descendants; this latter having been taken possession of by certain white settlers, the Government called upon the settlers to pay for the same, and in lieu thereof gave the grant above alluded to for the benefit of the Indians in exchange for the said 20½ acres.

A complaint is made on the part of the Indians that the land thus assigned them is less in quantity, and ninety-nine acres thereof inferior in quality to that left them by Mr. Worrell.

It is claimed on behalf of the Indians that as good and sufficient land should be granted to them as was taken from them.

[See, here, the papers relating to this Province forming part of the Correspondence, *ante*, between the Secretary of State for the Colonies and the Governors of the British North American
40 Provinces respecting the Indians, 1836-1838.]

* Pages 19, 134, 139.

† Sess. Papers, Can., 1875, No. 8, p. 8 of the Report.

8.— PROVINCE OF BRITISH COLUMBIA.

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(8) British
Columbia.

PAPERS CONNECTED WITH THE INDIAN LAND QUESTION. *

Governor Douglas to the Secretary of State for the Colonies.

(No. 4.)

VICTORIA, Vancouver's Island, 9th February, 1859.

SIR,—I have the honour of transmitting herewith for your information, my correspondence with the House of Assembly of Vancouver's Island on the public business of this colony.

2. The subjects referred to in that correspondence are not of an important nature, with the exception of that marked letter, dated 5th February, 1859, which touches on the subject of land reserved near the town of Victoria for the benefit of the native Indian population.

3. Attempts having been made by persons residing at this place to secure those lands for 10 their own advantage by direct purchase from the Indians, and it being desirable and necessary to put a stop to such proceedings, I instructed the Crown Solicitor to insert a public notice in the *Victoria Gazette* to the effect that the land in question was the property of the Crown; and for that reason the Indians themselves were incapable of conveying a legal title to the same, and that any person holding such land would be summarily ejected.

4. In my communication before referred to, you will perceive that I have informed the House of Assembly of the course I propose to adopt with respect to the disposal and management of the Indian reserve at Victoria. That is, to lease the land, and to apply all the proceeds arising therefrom for the exclusive benefit of the Indians.

5. I have but little doubt that the proposed measure will be in accordance with the views of 20 Her Majesty's Government, and I trust it may meet with their approval, as it will confer a great benefit on the Indian population, will protect them from being despoiled of their property, and will render them self-supporting, instead of being thrown as outcasts and burdens upon the colony.

I have, etc.,

JAMES DOUGLAS.

Governor Douglas to the Right Hon. Sir E. B. Lytton, Bart.

(No. 114.)

VICTORIA, Vancouver's Island, March 14, 1859.

SIR,—I have the honour to acknowledge the receipt of your despatch, No. 62, of the 30th December last, containing many valuable observations on the policy to be observed towards the 30 Indian tribes of British Columbia, and, moreover, your instructions directing me to inform you if I think it would be feasible to settle those tribes permanently in villages; suggesting in reference to that measure, that with such settlement civilization would at once begin; that law and religion would become naturally introduced among them, and contribute to their security against the aggressions of immigrants; that through indirect taxation, on the additional articles they would purchase, they would contribute to the colonial revenue, and with their own consent, some light and simple form of taxation might be imposed, the proceeds of which would be expended strictly and solely on their own wants and improvements.

* Victoria Government Printer, 1875; Sess. Papers Br. Col., 1876, p. 175, *t seq*; Sess. Papers, Can., 1876, pp. xlvii-lix, lv.

2. I have much pleasure in adding with unhesitating confidence that I conceive the proposed plan to be at once feasible, and also the only plan which promises to result in the moral elevation of the native Indian races, in rescuing them from degradation, and protecting them from oppression and rapid decay.

It will at the same time have the effect of saving the colony from the numberless evils which naturally follow in the train of every course of national injustice, and from having the native Indian tribes arrayed in vindictive warfare against the white settlements.

3. As friends and allies the native races are capable of rendering the most valuable assistance to the colony, while their enmity would entail on the settlers a greater amount of wretchedness and physical suffering, and more seriously retard the growth and material development of the colony than any other calamity to which in the ordinary course of events it would be exposed.

4. In my despatch, No. 4, of the 9th of February last, on the affairs of Vancouver's Island, transmitting my correspondence with the House of Assembly up to that date, there is a message made to the House on the 5th February, 1859, respecting the course I propose to adopt in the disposal and management of the land reserved for the benefit of the Indian population at this place. The plan proposed being briefly thus: That the Indians should be established on that reserve, and the remaining unoccupied land should be let out on leases at an annual rent to the highest bidder, and that the whole proceeds arising from such leases should be applied to the exclusive benefit of the Indians.

5. The advantages of that arrangement are obvious. An amount of capital would thereby be created equal perhaps to the sum required for effecting the settlement of the Indians; and any surplus funds remaining over that outlay, it is proposed to devote to the formation and support of schools, and of a clergyman to superintend their moral and religious training.

6. I feel much confidence in the operation of this simple and practical scheme; and provided we succeed in devising means of rendering the Indian as comfortable and independent in regard to physical wants in his improved condition, as he was when a wandering denizen of the forest, there can be little doubt of the ultimate success of the experiment.

7. The support of the Indians will thus, wherever land is valuable, be a matter of easy accomplishment, and in districts where the white population is small, and the land unproductive, the Indians may be left almost wholly to their own resources, and, as a joint means of earning their livelihood, to pursue unmolested their favourite calling of fishermen and hunters.

8. Anticipatory reserves of land for the benefit and support of the Indian races will be made for that purpose in all the districts of British Columbia inhabited by native tribes. Those reserves should in all cases include their cultivated fields and village sites, for which, from habit and association, they invariably conceive a strong attachment, and prize more for that reason than for the extent or value of the land.

9. In forming settlements of natives I should propose, both from a principle of justice to the state and out of regard to the well-being of the Indians themselves, to make such settlements entirely self-supporting, trusting for the means of doing so to the voluntary contributions in labour or money of the natives themselves; and, secondly, to the proceeds of the sale or lease of a part of the land reserved, which might be so disposed of, and applied towards the liquidation of the preliminary expenses of the settlement.

12. I would, for example, propose that every family should have a distinct portion of the reserved land assigned for their use, and to be cultivated by their own labour, giving them, however, for the present no power to sell or otherwise alienate the land; that they should be taught to regard that land as their inheritance; that the desire should be encouraged and fostered in their minds of adding to their possessions, and devoting their earnings to the purchase of property, apart from

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the reserve, which would be left entirely at their own disposal and control; that they should in all respects be treated as rational beings, capable of acting and thinking for themselves; and lastly, that they should be placed under proper moral and religious training, and left, under the protection of the laws, to provide for their own maintenance and support. . . .

I have, etc.,

JAMES DOUGLAS,

Governor.

The Right Honourable Sir E. B. Lytton, Bart., to Governor Douglas, C.B.

(No. 67.)

DOWNING STREET, May 20th, 1859,

SIR,—I have to acknowledge the receipt of your despatch, No. 114, of the 14th of March, on 10 the subject of the policy to be observed toward the Indian tribes, and containing your opinion as to the feasibility of locating the Indians in native villages, with a view to their protection and civilization.

I am glad to find that your sentiments respecting the treatment of the native races are so much in accordance with my own, and I trust that your endeavors to conciliate and promote the welfare of the Indians will be followed by all persons whom circumstances may bring into contact with them. But whilst making ample provision, under the arrangements proposed, for the future sustenance and improvement of the native tribes, you will, I am persuaded, bear in mind the importance of exercising due care in laying out and defining the several reserves, so as to avoid checking at a future day the progress of the white colonists. 20

I have, etc.,

CARNARVON,

In the absence of the Secretary of State.

The Chief Commissioner of Lands and Works to Mr. Cox.

NEW WESTMINSTER, 6th March, 1861.

SIR,—I have the honour to acknowledge the receipt of your communication of 12th ultimo, requesting information as to the laws for controlling Indian reservations, also those for the letting of agricultural lands to aliens.

With regard to the former, I have received instructions from His Excellency the Governor to communicate with you on the subject, and to request that "you will mark out distinctly all the 30 Indian reserves in your district, and define their extent as they may be severally pointed out by the Indians themselves." I would, at the same time, beg of you to be particular in scrutinizing the claims of the Indians, as I have every reason to believe that others (white persons) have, in some instances, influenced the natives in asserting claims which they would not otherwise have made, the object of such persons being prospective personal advantages previously covertly arranged with the Indians. . . .

I have, etc.,

R. C. MOODY.

The Colonial Secretary, British Columbia, to the Chief Commissioner of Lands and Works.

NEW WESTMINSTER, 5th March, 1861

SIR,—I am directed by His Excellency the Governor to request that you take measures, so 40 soon as may be practicable, for marking out distinctly the sites of the proposed towns and the Indian reserves throughout the Colony

2. The extent of the Indian reserves to be defined as they may be severally pointed out by the natives themselves.

I have, etc.,
 CHARLES GOOD,
For Colonial Secretary

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The Chief Commissioner of Lands and Works to the Colonial Secretary, British Columbia.

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LANDS AND WORKS DEPARTMENT,

NEW WESTMINSTER, Sept. 20th, 1865.

SIR,—In reference to Mr. Nind's letter to yourself of the 17th July, which has been referred to me for a report, I have the honour to state that the settlement of the boundaries of Indian reserves is, in my opinion, a question of very material present and prospective importance, and should engage immediately the attention of all interested.

I quite concur in Mr. Nind's remarks on the Kamloops and Shuswap reserves, taking for granted that the premises on which they are founded are correct, but as this Department is entirely without official information as to the location or extent of these Indian reserves, I am unable to supply any exact data on this subject.

It appears most advisable that it should be at once constituted the definite province of some person or persons, duly authorized for that purpose, to make a thorough enquiry into this subject throughout the colony. To ascertain as exactly as practicable what lands are claimed by the Indians, what lands have been authoritatively reserved and assured to the various tribes, and to what extent such reserves can be modified with the concurrence of the Indians interested in them either with or without money or other equivalent. . . .

I have, etc.,
 JOSEPH W. TRUTCH.

The Chief Commissioner of Lands and Works to the Acting Colonial Secretary, British Columbia.

LANDS AND WORKS DEPARTMENT,

NEW WESTMINSTER, 28th August, 1867.

SIR,—I have the honour to forward, herewith enclosed, for the consideration of His Excellency the Governor, a report on the subject of the Lower Fraser Indian Reserves, which I had drawn up in obedience to His Excellency's Minute of the 20th ultimo, before leaving for Cariboo.

I have, etc.,
 JOSEPH W. TRUTCH.

Enclosure.

LOWER FRASER INDIAN RESERVES.

It is certainly very desirable that the extent of the Indian reserves along the Lower Fraser River should be definitely determined, and the boundary lines thereof surveyed and exactly marked out on the ground as soon as possible, so that the uncertainty now existing as to what lands are to be permanently held by the Indians may be terminated, and the risk of disputes and collisions between the white settlers and the Indians as to their respective land rights be as far as practicable removed.

The subject of reserving lands for the use of the Indian tribes does not appear to have been dealt with on any established system during Sir James Douglas' administration.

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The rights of Indians to hold lands were totally undefined, and the whole matter seems to have been kept in abeyance, although the land proclamations specially withheld from pre-emption all Indian reserves or settlements.

No reserves of lands specially for Indian purposes were made by official notice in the *Gazette*, and those Indian reserves which were informally made seem to have been so reserved in furtherance of verbal instructions only from the Governor, as there are no written directions on this subject in the correspondence on record in this office.

In many cases, indeed, lands intended by the Governor to be appropriated to the Indians were set apart for that purpose, and made over to them on the ground by himself personally; but these were for the most part of small extent, chiefly potato gardens adjoining the various villages. 10

Previous to 1864 very few Indian reserves had been staked off or in any way exactly defined.

The only Indian reserves on the Lower Fraser actually surveyed off before Colonel Moody left the colony, as far as I can ascertain, were the following:—

1. Three lots at the mouth of the north arm of the Fraser.
2. An island at the mouth of the Coquitlam River.
3. Two lots on the banks of the Coquitlam River.
4. One lot opposite New Westminster.
5. Two lots at Keatsie, one on each side of the river.

In April, 1864, an Indian reserve, of 353 acres in extent, was laid off by Mr. McClure, by instructions from Mr. Brew, on the right bank of the Fraser River, opposite Port Langley. 20

By letter dated the 6th April, 1864, Mr. Brew directed Mr. McColl to mark out Indian reserves around the different Indian villages on the Fraser, between New Westminster and Harrison River, wherever reserves had not yet been declared and defined; also to mark out, as Indian reserves, any ground which had been cleared and tilled for years by Indians; all lands claimed by Indians as theirs, were to be marked out with corner and intermediate posts, and at all Indian villages where the quantity of land claimed by the Indians was not equal to ten acres for each family, the reserve was to be enlarged to that extent, each grown man to be considered as the head of a family.

Additional verbal instructions were given by Sir James Douglas personally to Mr. McColl, to the effect, and understood by Mr. McColl and subsequently stated in his report to Mr. Brew, dated 16th May, 1864, that all lands claimed by Indians were to be included in their reserves, that the 30 Indians were to have as much land as they wished, and that he was in no case to lay off a reserve under 100 acres.

Acting on this latter, indefinite authority, rather than on the written instructions from Mr. Brew, McColl marked out reserves of most unreasonable extent, amounting, as estimated by himself, to 50, 60, 69, 109, and even to as much in one case as 200 acres, for each grown man in the tribe.

The sketch map sent in by McColl with his report is compiled from his own roughly estimated distances alone; no actual survey was made by him. He seems to have merely walked over the ground claimed by the Indians, setting up stakes at the corners pointed out by them, including the lands they chose to ask for, and then to have estimated the acreage contained therein.

These figures, therefore, cannot be relied on, but it is certain that the extent of some of the 40 reserves staked out by Mr. McColl is out of all proportion to the numbers or requirements of the tribes to which they were assigned.

The Indians regard these extensive tracts of land as their individual property, but of by far the greater portion thereof they make no use whatever, and are not likely to do so; and thus the

land, much of which is either rich pasture or available for cultivation and greatly desired for immediate settlement, remains in an unproductive condition, is of no real value to the Indians and utterly unprofitable to the public interests.

I am, therefore, of opinion that these reserves should, in almost every case, be very materially reduced.

Two methods of effecting this reduction may be suggested, either (1) to disavow absolutely McColl's authority to make these reserves of the extravagant extent laid out by him, and, instead, to survey off the reserves afresh, either on the basis of Mr. Brew's letter of instructions to McColl, namely, ten acres to each grown man, or of such extent as may on investigation be determined to be proportionate to the requirements of each tribe, or (2) to negotiate with the Indians for the relinquishment of the greater portion of these lands, which they now consider their own, on terms of compensation, in fact to buy the lands back from them.

The former of these systems was carried out last year in the reduction of the Kamloops and Shuswap Indian Reserves, where tracts of land of most unreasonable extent were claimed and held by the local tribes under circumstances nearly paralld to those now under discussion; and I think that a similar course may be very fairly and expediently adopted in this case.

The Indians have really no right to the lands they claim, nor are they of any actual value or utility to them; and I cannot see why they should either retain these lands to the prejudice of the general interests of the colony, or be allowed to make a market of them either to Government or to individuals.

It seems to me, therefore, both just and politic that they should be confirmed in the possession of such extents of land only as are sufficient for their probable requirements for purposes of cultivation and pasturage, and that the remainder of the land now shut up in these reserves should be thrown open to pre-emption.

But in carrying out such a reduction of these reserves in manner proposed, very careful management of the dispositions of the Indian claimants would be requisite to prevent serious dissatisfaction; fairness and discretion are equally essential to effect the desired result, to convince the Indians that the Government intend only to deal fairly with them and the whites, who desire to settle on and cultivate the lands which they (the Indians) have really no right to and no use for.

Perhaps the most judicious course would be that some agent of the Government be commissioned to confer with the Indians on each reserve, to ascertain exactly the numbers of each tribe, and the amount of land actually cultivated or used by them as pasturage, to apprise them that their rights to the tracts now held by them are not acknowledged by the Government, but that such extents of land will be at once surveyed and confirmed to them, as the Government may determine to be proportionate to their actual requirements, and to report the results in each case, stating the amounts of land that in his opinion should be finally included in each reserve.

The Government would after the receipt of such a report be in a much better position than at present to take decisive action in the matter.

JOSEPH W. TRUTCH.

28th August, 1867.

40 *The Colonial Secretary (British Columbia) to the Chief Commissioner of Lands and Works.*

COLONIAL SECRETARY'S OFFICE,
6th November, 1867.

SIR,—The Governor has had under consideration the subject matter of your letter of the 28th August last, relative to the extent and boundaries of the Indian Reserves on the Lower Fraser.

2. His Excellency considers it very desirable that this question should not be allowed to remain any longer in the indefinite state in which it appears to stand at present, but that these

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reserves should be defined so that the Indians may be aware of the exact limits of the ground allotted to them.

3. There is good reason to believe that Mr. McColl very greatly misunderstood the instructions conveyed to him in respect of marking out these reserves in the first instance, and he has, in consequence, created reserves of land far beyond the wants or expectations of the Indians. The instructions given in Mr. Brew's letter of the 6th April, 1864, are very simple, namely, to mark out as reserves any ground which had been cleared and tilled for years by the Indians; and should the ground so circumstanced be not equal to ten acres for each family, each adult male being considered the head of the family, the reserve was to be enlarged to that extent. As for the verbal instruction which Mr. McColl is said to have received from Governor Douglas, that the Indians 10 were to have as much land as they wished, it is apprehended that Mr. McColl entirely misinterpreted Governor Douglas' wishes, although it is very probable that he was perfectly right in not laying out any Indian reserves of less extent than 100 acres.

4. The Indians have no power to alienate any portion of their reserves, and no such alienation can be confirmed. The amount of ground reserved should be amply sufficient for all the actual wants and requirements of the tribe for which the reserve may be made; but in no case should it be of such extent as to engender the feeling in the mind of the Indian that the land is of no use to him, and that it will be to his benefit to part with it.

5. All these reserves that have been laid out of excessive extent should be reduced as soon as may be practicable. The Indians have no right to any land beyond what may be necessary 20 for their actual requirements, and all beyond this should be excluded from the boundaries of the reserves. They can have no claim whatever to any compensation for any lands so excluded, for they really have never actually possessed it, although, perhaps, they may have been led to view such land as a portion of their reserve, through Mr. McColl so loosely reserving such large tracts of land out of which at some future day the various Indian reserves would have to be accurately defined.

6. His Excellency will be glad if you will at an early opportunity make a reconnaissance of the Indian reserves herein referred to, with the object of enabling you hereafter the more expeditiously and effectually to carry out the work of survey and marking out, and to direct it in such manner as shall avoid any misunderstanding or complications with the Indians. 30

I have, etc.,

WILLIAM A. G. YOUNG.

The Chief Commissioner of Lands and Works to the Colonial Secretary, British Columbia.

LANDS AND WORKS DEPARTMENT,

NEW WESTMINSTER, 19th November, 1867.

SIR,—I have the honour to report, for the information of the Governor, that in accordance with His Excellency's instructions conveyed to me in your letter of the 6th inst., I have, in company with Captain Ball, the Magistrate of the district, visited all but four of the Indian reserves on the Lower Fraser, which were laid out by the late Sergt. McColl, and have conferred with the Chiefs of the various tribes at their respective villages. 40

The reserves which from lack of time we were unable to visit are those laid off on the Upper Chilliwack for the Scokale and Sowhylee tribes, and those on the right bank of the Fraser opposite Sumass, reserved for the Flatwhaas and Nickameem tribes, the latter of which, however, we saw from the river extending about four miles along the bank.

I am satisfied, as the result of our reconnaissance, that these reserves are in almost every instance too extensive, and in some cases extravagantly so, but that there will be no practical difficulty in reducing them, with the full concurrence of the Indians themselves, within much narrower limits.

The Indians generally, and indeed without exception as far as we could ascertain, are ready to abide by any decision the Governor may make as to the extent of land to be reserved for their use.

They do not seem opposed to relinquishing portions of the land which, since McColl's surveys, they have been led to consider as set apart for them. They are only anxious to retain their villages and potato patches, and such moderate extents of land around them as may be finally reserved by Government for them.

They express themselves, however, as much aggrieved at the appropriation by white settlers of portions of the lands which they have hitherto considered as intended for the Indians alone, evidently regarding such settlements as unauthorized intrusions on their rights.

I took occasion at each village to inform the Indians that McColl had no authority for laying off the excessive amounts of land included by him in these reserves, and that his action in this respect was entirely disavowed, but that the Governor would direct that such amount of land should be secured to the use of each tribe as he should determine to be proportionate to their numbers and requirements, and that next spring these reserves would be definitely staked off, and maps of the same given to each chief, so that the boundaries thereof should be clearly understood.

I also impressed upon them that such lands would not be their property to sell or convey away in any manner, but would be held in trust by the Government for their use as long as they concluded to live upon them, and free from all intrusion either from white people or Indians of other tribes.

I had not time to make such a detailed and careful inspection of these reserves as would warrant me in recommending what specific tracts of land should be set apart for each tribe. This can be best decided on the ground, the boundaries of each reserve being so arranged as to leave out as far as may be found practicable such lands as have been settled upon and improved by white persons, retaining always, however, for the use of the Indians, the sites of the villages and as much land around them, or (as will in some cases be found expedient) both around their villages and at the spots where they have been in the habit of cultivating potatoes, as will amount in the aggregate to ten acres of tillable land to each adult male in the tribe, together with a moderate amount of grazing land for those tribes which possess cattle and horses.

I enclose herewith a statement of the numbers of each tribe visited by us, and of the cattle possessed by them as furnished by the the chiefs at their respective villages.

I have, etc.,

JOSEPH W. TRUTCH.

Governor Musgrave to Earl Granville.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 29th January, 1870.

My Lord,—I have had the honour to receive your Lordship's despatch, No. 104, of the 15th November, 1869, transmitting copy of letter from the Secretary of the Aborigines' Protection Society, relative to the condition of the Indians in Vancouver Island.

2. If the statements made in Mr. Sebright Green's letter, forwarded to your Lordship by the Society, were statements of facts, they would be a matter of great reproach to the Colonial

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Government ; but I have satisfied myself that his representations are in some cases quite incorrect, and in others greatly exaggerated. As the circumstances alleged and referred to by Mr. Green were antecedent to my acquaintance with the Colony, I referred his letter to Mr. Trutch, the Commissioner of Lands and Works and Surveyor-General, for a report, and I now enclose a memorandum from that gentleman upon the subject. From other sources of information I have every reason to believe Mr. Trutch's statements to be correct.

3. It is very difficult, if not impossible, to place Indian tribes exactly in the same position as more civilized races, but they do substantially enjoy equal protection from the Government ; and I believe that those of them who are most in contact with the white population quite understand that this is the case. Complaints are frequently brought by the Indians in the neighbourhood of 10 Victoria before the Police Magistrate against each other. And since my arrival here Indians have been the principal witnesses in trials for murder.

I have, etc.,

A. MUSGRAVE.

*Extract from the Memorandum of the Commissioner of Lands and Works and Surveyor-General
(British Columbia), referred to in the preceding despatch.*

The Indians have in fact been held to be the special wards of the Crown, and in the exercise of this guardianship Government has, in all cases where it has been desirable for the interests of the Indians, set apart such portions of the Crown Lands as were deemed proportionate to, and amply sufficient for, the requirements of each tribe ; and these Indian Reserves are held by 20 Government, in trust, for the exclusive use and benefit of the Indians resident thereon.

But the title of the Indians in the fee of the public lands, or of any portion thereof, has never been acknowledged by Government, but on the contrary, is distinctly denied. In no case has any special agreement been made with any of the tribes of the mainland for the extinction of their claims of possession, but these claims have been held to have been fully satisfied by securing to each tribe as the progress of the settlement of the country seemed to require the use of sufficient tracts of land for their wants for agricultural and pastoral purposes.

In 1850 and 1851, shortly after the first settlement of Victoria by the Hudson Bay Company, at that time grantees from the Crown of the whole of Vancouver Island, with full executive powers of Government, their agent, Governor Douglas, made arrangements with the various 30 families of Indians then occupying the south-eastern portion of the Island, for the relinquishment of their possessory claims in the district of country around Fort Victoria, in consideration of certain blankets and other goods presented to them. But these presents were, as I understand, made for the purpose of securing friendly relations between those Indians and the settlement of Victoria, then in its infancy, and certainly not in acknowledgment of any general title of the Indians to the lands they occupy.

In reference to the Cowichan settlements, it appears from the records, for I cannot speak of this matter from personal knowledge, as I had no official connection with Vancouver Island until the year before last, that portions of the Cowichan Valley were surveyed by Government and sold in 1859. The settlement dates therefore from that year, although the unoccupied lands in this dis- 40 trict were not thrown open for pre-emption until 1862. When these lands were surveyed, certain sections, containing in all 4,635 acres, were set apart as reserves for the use of the Cowichan Indians, and are now held in trust by Government for that purpose, with the exception of about 500 acres which have been since withdrawn from this reservation with the consent, as appears from the recorded correspondence in this office, of the Indians interested therein.

The Chief Commissioner of Lands and Works to the Colonial Secretary (British Columbia).

LANDS AND WORKS OFFICE,

VICTORIA, 16th October, 1871.

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SIR,—I have the honour to acknowledge the receipt of your instructions, under date of 5th September, to prepare tracings of the Indian reserves existing in this Province, together with statistics of the natives generally.

I have now to transmit a series of tracings, lettered A to Q inclusive, showing all the Indian reserves which have been surveyed, together with a schedule showing the locality, number of sections, general description, acreage, name of tribe in whose favour each reserve has been made, also an appendix one (I) showing what portions of any particular reserve had been leased to white men, together with the terms of the lease. Parts of the Songish Indian reserve, opposite to Victoria, have been so leased by Commissioners appointed by Sir James Douglas. These leases have all expired or been cancelled.

A certain sum of money, \$1,984.82, is now lying in the Treasury to the credit of this reserve, and is constantly increasing.

The leases shewn in the appendix were executed by me, in virtue of the authority of the late Governor, and are only binding so far as the Government may have the power. The rents shewn in the appendix are due from the date of each respective lease. I have no statistics as to the number of Indians in each tribe, and have no means of obtaining them. It would cost a great deal of time and money, and would involve a visit to each Indian village throughout the Province. There are, especially in Vancouver Island, a great many tribes who have no reserves marked out either on plans or on the ground.

The "Land Ordinance, 1870," under which alone lands can be acquired by intending settlers, especially exempts all Indian lands and settlements from its operation. It has generally been the practice to lay out on the ground the Indian reserves synchronously with the settlement of the district by the whites. This system has been found effectual and far less costly than that of surveying the reserve altogether, as they are naturally scattered and often at great distances apart. In the latter case the posts and marks on the ground might become obliterated before the white men advanced, as the Indians, though tenacious of their rights in the lands when once surveyed, will not take the trouble to perpetuate these posts and marks, or to preserve them in any way.

Appendix (2) shows the position of land included in the Quamicham District (sheet B), which have been promised to certain settlers in the district with the consent of the natives.

There are various missions established in different parts of the Province, but as they are chiefly located on lands taken up under the pre-emption laws, I have not reported them as existing, inasmuch as the Indians have no direct interest in the land.

The Metlakahtlah Mission on the north-west coast of the Province is established on land specially reserved by the Government for the purposes and uses of the mission.

Other reserves can be made from time to time as may be found necessary.

No titles to land held by the Indians have been issued.

The Executive has always exercised a general control and supervision over the Indians and their lands, and has always prevented them from alienating in any way any portion of their reserves.

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No Indian Reserves have been laid out on Vancouver Island on the west side and not beyond Comox on the east side. No Indian Reserves have been laid out on the coast of the main land beyond Burrard Inlet.

The total area of land laid out on the ground for the use of the natives is 28,437 acres.

I have, etc.,

B. W. PEARSE.

[Here follows Schedule of the surveyed Indian Reserves of the Province as they existed prior to its union with the Dominion. See schedule of the Reserves as they existed in 1875, under heading, *post*, "Indian Reserves of the Dominion."]

Extract from Report of the Dominion Superintendent of Indian Affairs for British Columbia, 10
appended to the Report of the Minister of the Interior (Canada), for 1873.*

BRITISH COLUMBIA,

VICTORIA, JANUARY 11TH, 1873.

The Siccanies are not very numerous but have a dialect quite different from the Takalies. They occupy the region of Peace River north of Fort McLeod. The general condition of these Indians is wretched, and their local, social and moral character extremely low. An occasional visit from one of the Roman Catholic Missionaries is the only christian teaching they have had. One of their chief characteristics is treachery; and it was a tribe of the Takalies (the Chilcoatins) who in 1863 massacred all but two or three of the late Mr. Waddington's party, who were employed at the time in constructing a trail through the Chilcoatin plains to Cariboo. From sixteen to twenty 20 thousand pounds sterling were expended by the Government (and even then without complete success) in the endeavor to bring the guilty parties to justice. They live upon fish and game, and know nothing whatever of agriculture. Among the fish easily obtained are whitefish, trout, carp, sturgeon, salmon, etc.; of game, besides wild fowl, moose, cariboo, bear, beaver, fox, mink, martin, lynx, otter, fisher, wolf, wolverine, musquask, etc., are procured with facility.

They have particular places for hunting and fishing peculiar to and claimed by each tribe. The boundaries of these localities cannot be transgressed without tribal consent, obtained by purchase or otherwise. There are as yet no reservations of land made for them, and the early prospective development of that part of the Province together with the further welfare of these Indians render the immediate selection of their lands imperative. They number a population of 30 some fifteen hundred. * * *

[In reference to the system of treatment of Indians inaugurated by the first Colonial Government of Vancouver Island, and carried out by succeeding Governments, Governor Douglas, at the opening of the first Legislative Council on the mainland at New Westminster, in January, 1864, amongst other things, said:—]

"The Indians themselves have no power to sell or alienate these lands (their reserves), as the title will continue in the Crown, and be hereafter conveyed to Trustees, and by that means secured to the several tribes as a perpetual possession."

* [Pages 6, 10.—Sess. Papers, Can., 1873, No. 23.]

*Report of the Minister of the Interior (Canada), respecting the Indian Reserves.*JOINT
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The undersigned has had under his consideration the Order of His Excellency the Governor-General in Council, under date of 21st March, 1873, and the subsequent correspondence arising out of that Order in reference to the Indian Reserves in British Columbia. (8) British Columbia.

By the 13th article of the Terms of Union between Canada and British Columbia the Indian Reserves in British Columbia were transferred to the Dominion Government and are now under the control of this Department.

10 From the official and other information in possession of the undersigned it is clear that the dissatisfaction now existing among the Indians in British Columbia arises, to a great extent, out of the present state of the reserves, and if prompt measures be taken to satisfy the requirements of the Indians on this head a fruitful source of dissatisfaction will have been removed. By the Order in Council above it is provided among other things that each Indian family shall be assigned 80 acres of land of average quality to remain permanently the property of such family. The Local Government of British Columbia has positively declined to grant such an extent of land for the use of the Indians, as being far in excess of the quantity previously allowed the Indians by the local Government, and under the Terms of Union the local Government are only bound "to give tracts of land of such extent as had hitherto been the practice of the local Government
20 "to appropriate for that purpose"—ten acres for every family of five persons. The Government of British Columbia, however, on the representation of Mr. Commissioner Powell, consented to double this amount and to appropriate 20 acres of land to every five persons. This offer Mr. Powell was authorized to accept, while at the same time he was urged to obtain if possible double that quantity for the Indians east of the Cascade range in accordance with the general usage in British Columbia of granting a double allowance to the white settlers east of the said range.

In view of the foregoing circumstances it is recommended:—

1. That the paragraph in the Order in Council above referred to appropriating 80 acres of land to each Indian family of five persons be rescinded, and that it be provided that only 20 acres be allotted to five persons.
- 30 2. That whenever it is so desired by a majority of Indians at any reserve such reserve shall be divided into suitable allotments on the basis of 20 acres to each five persons in the said band, and the holder of every such allotment shall be placed in possession thereof, by some formal instrument to be given him by the Commissioner.
3. Whenever any reserve does not contain sufficient land to give 20 acres to each five in the band of Indians to which such reserve has been apportioned, then land in the immediate vicinity or as near thereto as possible should be obtained from the local Government for the individuals not so provided for.
4. Whenever in any part of the Province no reserves of land have been made for the Indians, and there are any white settlers or any immediate prospect of such, application should be made to
40 the local Government for the required number of acres to be there reserved for the Indians.
5. Great care should be taken that the Indians, especially those inhabiting the coast, should not be disturbed in the enjoyment of their customary fishing grounds, which should be reserved for them previous to white settlement in the immediate vicinity of such localities.
6. The Commissioner should be instructed to suggest such measures as he may think necessary to prevent difficulties among the Indians resident in pastoral districts, arising from the unfenced condition of extensive lands leased to white men for grazing purposes. . . .

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8. In view of the difficulty and expense of making the allotment of the surveys on the basis of 20 acres to each five persons, and taking into consideration the very large and unlooked for expenditure which the general administration of Indian affairs in British Columbia is about to entail upon the Dominion Government, the undersigned would recommend that the Indian Commissioner be authorized to press strongly upon the local Government the duty of co-operating in every way with the Dominion Government in pacifying the Indian population of the Province and satisfying their reasonable demands; and as the amount of land which they now propose to allot to the Indians is very small, that he be particularly requested to urge the local Government to allocate 20 acres of land to every Indian, *being a head of a family*, without reference to the number of persons in the family.

D. LAIRD.

10

The Provincial Secretary (British Columbia), to the Superintendent of Indian Affairs.

PROVINCIAL SECRETARY'S OFFICE,
28TH SEPTEMBER, 1874.

SIR,—In reply to your letter of the 15th ultimo, on the subject of the interpretation to be given to the Order in Council regulating the extent of the reservations to be made wherever necessary throughout the Province for Indian purposes, I have now the honour to state that the said Order was not intended to affect or unsettle reservations already established, but that its operation is altogether confined to the cases in which, at the time of Confederation, aboriginal tribes or communities were not provided with lands set apart for their separate and exclusive use. 20

I am, however, authorized to state that the Government will consider any special claim made by you on behalf of an Indian community, where it can be shown to the satisfaction of the Chief Commissioner of Lands and Works that the circumstances warrant a departure from the general principle laid down in the said Order in Council.

I have, etc.,

JOHN ASH.

P. S.—I take this opportunity of calling your attention to the fact that the acknowledgment made by you in previous correspondence that existing Indian Reserves do not in some cases allow of 20 acres of land being allotted to each head of a family, is a proof that the Provincial Government in agreeing to furnish 20 acres in future, has been more liberal than it was called upon to be by the Terms of Union, which stipulate that tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose shall from time to time be conveyed by the local Government to the Dominion Government in trust, for the use and benefit of the Indians, on application of the Dominion Government.

J. A.

*Extract from Report of I. W. Powell, Indian Commissioner at Victoria, B.C., 4th February, 1875.**

RESERVES OF LAND.—The Indian Reserves of British Columbia have for some time been, and are at the present time, in a most unsatisfactory condition, both to the white settlers and Indians. To the former from the fact of being so small and insufficient in many instances as to occasion constant disputes as to their limits; and to the latter, because the Indian, who is now 40 beginning to understand the value of land, looks with envy on the large possessions of the whites, and with discontent upon the small areas allowed to himself, as the primitive and original possessor of all, and to which his rights have been ignored by past Colonial Governments.

*Extract from Report of the Hon. David Laird, Minister of the Interior (Canada), for the year ending 30th June, 1874.**

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The Indians of British Columbia complain that the quantity of land which the local Government propose to assign them as reserves is utterly inadequate to their necessities; and they further allege that, where land matters are concerned, their rights are ignored and their claims subordinated to those of the white settlers. The result of this state of things is that there is a universal and growing feeling of dissatisfaction among the Indian population of the Province, and a corresponding uneasiness and alarm among the white settlers.

The satisfactory adjustment of this important question involves, as will be seen, the united action of the Dominion and Local Governments and to the attainment of this end the efforts of the Department have been directed for the past two years, heretofore, unfortunately, without any satisfactory result. To understand rightly the positions which the Dominion and Local Governments occupy relative to each other and to the Indian, as regards this question, it is to be remembered:

1st. That under the general provisions of section 146 of the British North America Act of 1867 all the public lands in the Province of British Columbia are under the control of the local Government. [He then recites the terms of Union.]

Report of a Committee of the Privy Council, (Canada) approved by the Governor-General, 10th November, 1875.

The Committee of Council have had under consideration the Minute in Council of the Government of British Columbia of the 18th August last, adopting the recommendations contained in a memorandum of the local Attorney-General as the expression of the views of that Government as to the best method of bringing about a settlement of the Indian land question, and submitting those recommendations for the consideration and assent of the Government of the Dominion.

They have also had before them the memorandum herewith annexed, from the Honourable Mr. Scott, acting in the absence of the Honourable the Minister of the Interior, to whom the above-mentioned documents were referred, and they respectfully report their concurrence in the recommendations therein submitted and advise that a copy thereof and of this minute be transmitted for the consideration of the Government of British Columbia.

30 Certified, W. A. HIMSWORTH,
Clerk Privy Council, Canada.

Memorandum of the Acting Minister of the Interior (Canada), referred to in the preceding.

DEPARTMENT OF THE INTERIOR,
OTTAWA, 5th November, 1875.

MEMORANDUM:—

The undersigned has had under consideration the report of the Executive Council of the 18th of August last, adopting the recommendations contained in memorandum of the local Attorney-General, the Honourable George A. Walkem, as the expression of the views of that Government as to the best method of bringing about a settlement of the Indian land question, and submitting those recommendations for the consideration and assent of the Government of the Dominion.

40 The action of the British Columbia Government in this matter was no doubt brought about by the Order of Your Excellency in Council of the 4th November, 1874, on the subject of the Indian reserves of British Columbia, which was communicated officially to the British Columbia Government by the Secretary of State.

* [Sess. Papers, Can., 1875, No. 8, p. 9.]

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The suggestions contained in Mr. Walkem's memorandum and adopted by the Order in Council of the British Columbia Government are as follows:—

1. That no basis of acreage for Indian reserves be fixed for the Province as a whole, but that each nation (and not tribe) of Indians of the same language be dealt with separately.

2. That for the proper adjustment of Indian claims the Dominion Government do appoint an agent to reside with each nation.

3. That reserves of land be set aside for each nationality of Indians; such reserves to contain, in addition to agricultural lands, a large proportion of wild and forest land. Every application for a reserve shall be accompanied by a report from the agent having charge of the nation for whom the reserve is intended, and such report shall contain a census and give a description of the habits and pursuits of each nation and also of the nature and quantity of the land required for the use of such nation. 10

4. That each reserve shall be held in trust for the use and benefit of the nation of Indians to which it has been allotted, and, in the event of any material increase or decrease hereafter of the members of a nation occupying a reserve, such reserve shall be enlarged or diminished as the case may be, so that it shall bear a fair proportion to the numbers of the nation occupying it. The extra land required for any reserve shall be allotted from vacant Crown lands and any land taken off a reserve shall revert to the Province.

5. That the present local reserves be surrendered by the Dominion to the Province as soon as may be convenient, the Province agreeing to give fair compensation for any improvements or clearings made upon any reserve which may be surrendered by the Dominion and accepted by the Province. 20

The suggestions in question are stated by Mr. Walkem as having been made by Mr. Duncan, in a letter which is appended to the Order in Council.

The undersigned would remark that the suggestions as given by Mr. Duncan in the letter in question, do not correspond precisely with the propositions formulated by Mr. Walkem.

Mr. Duncan's suggestions are as follows:—

1. That no basis of acreage for reserves be fixed for the Province as a whole, but rather that each nation of Indians be dealt with separately on their respective claims.

2. That for the proper adjustment of such claims let the Dominion and the Provincial Governments each provide an agent to visit the Indians and report fully as to the number and pursuits of each nation and the kind of country they severally occupy. 30

3. That the Provincial Government deal as liberally with the Indians as other Provincial Governments in the Dominion.

My opinion is that a liberal policy will prove the cheapest in the end, but I hold it will not be necessary in the interest of the Indians to grant them only cultivable lands; rather I would recommend that a large portion of their reserves should be wild forest lands, and hence may be very satisfactory without impoverishing the Province, and at the same time so satisfactory to the Indians as to allay all irritation and jealousy towards the whites.

4. I think the Provincial Government might reasonably insist upon this with the Dominion Government: that no Indian should be allowed to alienate any part of a reserve, and in case of any reserve being abandoned, or the Indians on it decreasing, so that its extent is disproportioned to the number of occupants, that such reserve or part of a reserve might revert to the Provincial Government. 40

Mr. Duncan adds:—"The existing reserves are shown to be, by the correspondence, both irregular in quantity and misplaced as to the locality, by following tribal traditions, which is no doubt a mistake and fraught with bad consequences,

" My advice would be, in the meantime, simply to ignore them, as it certainly would not be wise to regard them as a precedent, and it would be impolitic to have two systems of reserves in the Province, one tribal and the other national."

It will be observed that Mr. Walkem speaks of the appointment of an agent by the Dominion Government, whereas Mr. Duncan proposes that the Dominion and Provincial Governments shall each provide an agent to visit the Indians and report upon the question of reserves.

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While the undersigned is of opinion that in view of the very large experience Mr. Duncan has had amongst the Indians of British Columbia, and the marvellous success which has attended his labours amongst them, that gentleman's suggestions on matters of Indians policy are entitled to the
10 greatest weight, and, while he concurs entirely in the general principles enunciated by Mr. Duncan, yet he thinks that both the suggestions of Mr. Duncan and the propositions of Mr. Walkem, adopted by the Government of British Columbia in their minute of 8th August last, fail to provide a prompt and final settlement of this long pending controversy.

Mr. Walkem provides merely that the agent shall make an application for a reserve and report upon the subject, and Mr. Duncan recommends that the Dominion and Provincial agents shall report merely as to the number and pursuits of the Indians. Looking to Mr. Walkem's admission, "that the Indians have undoubtedly become discontented, and that they are restless and uneasy as to their future," and to his further statement "that the local Government have been keenly alive not only to the advantage, but to the absolute necessity and urgent importance of a speedy
20 settlement of all the questions connected with their reserves," and again to Mr. Duncan's expression of opinion as to "the urgency and importance of the land question and its vital bearing on the peace and prosperity of the Province," the undersigned submits that no scheme for the settlement of this question can be held to be satisfactory which does not provide for its prompt and final adjustment.

In lieu, therefore, of the propositions submitted by Mr. Walkem and sanctioned by the Order in Council of the British Columbia Government, the undersigned would respectfully propose the following:—

1. That with the view to the speedy and final adjustment of the Indian reserve question in British Columbia on a satisfactory basis, the whole matter be referred to three Commissioners, one
30 to be appointed by the Government of the Dominion, one by the Government of British Columbia, and the third to be named by the Dominion and the local Governments jointly.

2. That the said Commissioners shall, as soon as practicable after their appointment, meet at Victoria, and make arrangements to visit, with all convenient speed, in such order as may be found desirable, each Indian nation (meaning by nation all Indian tribes speaking the same language) in British Columbia, and after full enquiry on the spot into all matters affecting the question, to fix and determine for each nation, separately, the number, extent and locality of the reserve or reserves to be allowed to it.

3. That in determining the extent of the reserves to be granted to the Indians of British Columbia, no basis of acreage be fixed for the Indians of that Province as a whole, but that each
40 nation of Indians of the same language be dealt with separately.

4. That the Commissioners shall be guided generally by the spirit of the Terms of Union between the Dominion and the local Governments, which contemplate a "liberal policy" being pursued towards the Indians, and in the case of each particular nation regard shall be had to the habits, wants and pursuits of such nation, to the amount of territory available in the region occupied by them, and to the claims of the white settlers.

5. That each reserve shall be held in trust for the use and benefit of the nation of Indians to which it has been allotted, and in the event of any material increase or decrease hereafter of the numbers of a nation occupying a reserve, such reserve shall be enlarged or diminished as the case

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may be, so that it shall bear a fair proportion to the members of the nation occupying it. The extra land required for any reserve shall be allotted from Crown lands, and any lands taken off a reserve shall revert to the Crown.

6. That so soon as the reserve or reserves for any Indian nation shall have been fixed and determined by the Commissioners as aforesaid, the existing reserves belonging to such nation, so far as they are not in whole or in part included in such new reserve or reserves so determined by the Commissioners, shall be surrendered by the Dominion to the Local Government so soon as may be convenient, on the latter paying to the former, for the benefit of the Indians, such compensation for any clearings or improvements made on any reserve so surrendered by the Dominion, and accepted by the Province, as may be thought reasonable by the Commissioners aforesaid. 10

It will be observed that the preceding paragraphs, numbers 3, 4, 5 and 6, are substantially the same as those submitted in the memorandum of Mr. Walkem, approved by the Order in Council of the British Columbia Government.

The undersigned would further recommend that each Commissioner be paid by the Government appointing him, and that the third Commissioner be allowed ten dollars a day while acting, and that his pay and other expenses be borne equally by the Dominion and local Governments; and the undersigned would further recommend that if this memorandum be approved by Your Excellency, a copy thereof and of the Minute of Council passed thereon be communicated to His Honour the Lieutenant-Governor of British Columbia for the consideration of his Government, and that another copy be placed in Your Excellency's hands for transmission to the Right Honourable 20 the Secretary of State for the Colonies.

The whole respectfully submitted.

R. W. SCOTT,
Acting Minister of the Interior.

The Lieutenant-Governor of British Columbia to the Secretary of State for the Colonies.

GOVERNMENT HOUSE, 8th January, 1876.

MY LORD,—I have the honour to forward herewith, for Your Lordship's information, upon the advice of my Ministers, a Minute of my Executive Council on the subject of the Indian land question in British Columbia, in reference to which this Government was apprised by the Government of the Dominion, in October, 1874, that a communication would be addressed to your Lordship 30 conveying the views of that Government; and I beg to state that in accordance with the desire of my Council I have this day, by despatch to the Secretary of State for Canada, signified the acceptance by this Government of the proposals made by the Dominion Government for the settling of this question, and which are set forth in the Minute of Council now enclosed.

I have, etc.,

J. W. TRUTCH.

[The minute of Council referred to is that of 6th January, 1876, not printed here. The proposals of the Dominion Government, therein set forth and here referred to, are those embodied in the above memorandum of the Acting Minister of the Interior, dated 5th November, 1875.]

*Report of a Committee of the Executive Council (British Columbia) approved by the Lieutenant- 40
Governor, 18th August, 1875.*

The Committee of Council concur in the statements and recommendations contained in the memorandum of the Honourable the Attorney-General on the subject of Indian affairs, dated 17th of August, 1875, and advise that it be adopted as the expression of the views of this Government as to the best method of bringing about a settlement of the Indian land question.

Certified.

W. J. ARMSTRONG,
Clerk of the Executive Council.

*Memorandum of the Attorney-General of British Columbia.*JOINT
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The undersigned begs leave to submit, for the consideration of His Honour the Lieutenant-Governor in Council, the following memorandum on Indian affairs:

For some time past the Government of the Province have endeavored, but without success, to arrive at some practical solution of what is termed the Indian land question. The negotiations with the Dominion on the subject have been based on the 13th article of our Terms of Union, agreed to in 1871. . . .

Upon these four distinct terms the 13th article is based. It need scarcely be stated that there is a marked difference between a stipulation to establish a general policy and an agreement to supply certain detailed assistance "to carry out such policy." Referring to the report of the Honourable the Minister of the Interior, adopted by a minute of the Privy Council on the 4th of November, 1874, it will be observed that the Minister fails to draw such a distinction, and harshly condemns the Indian policy of the Crown colony "as little short of a mockery of the claims" of the Indians, because the aid given to it in the shape of land for education fell short of that given in old Canada. . . .

With respect to the second proposition, that the Indian policy of Canada shall not be less liberal than that of the Crown colony of British Columbia, it is not intended to give more than a brief statement of the Colonial policy as it was pursued prior to 1871; nor would such a statement have been necessary had the Colonial Indian system been better understood by the Dominion Government.

The policy of the Dominion aims at a concentration of the Indians upon reserves, while that of the Crown colony, besides granting reserves in cases where the Indians preferred them, courted rather an opposite result. The Colonial policy was first inaugurated under the auspices of the Imperial Government in 1858, the date of the foundation of the Crown colony. Under this policy the natives were invited and encouraged to mingle with and live amongst the white population, with a view of weaning them by degrees from savage life and of gradually leading them by example and precept to adopt habits of peace, honesty, and industry. It is true that this step was not unattended with some of the well-known evils which are unfortunately inseparable from the attempted fusion of savage and civilized races; but these defects it was believed would in time have been largely removed by the application of proper remedies. . . .

Their lives and their property were jealously guarded. From humane motives, two penal statutes with stringent provisions were in early days passed—one to prevent the spoliation of their graves and burial grounds—the other, as its caption reads, "To prohibit the sale or gift of intoxicating liquors to Indians." (Revised Statutes, Nos. 69 and 85.)

Thus far it will be seen that no discriminating lines were drawn between the natives and other races, save in the interest of the former. In disposing however of the Crown lands, the colony for obvious reasons made a distinction between the Indians and other resident British subjects. This may best be shown by quoting section three of the "Land Ordinance, 1870."

Section 3.—"Any male . . . British subject of the age of 18 years or over, may acquire the right to pre-empt any tract of unoccupied, unsurveyed, and unreserved Crown lands (not being an Indian settlement), not exceeding 320 acres east of the Cascade Mountains, and 160 acres . . . in the rest of the colony. Provided that such right . . . shall not extend to any of the Aborigines of this continent, except to such as shall have obtained the Governor's special permission in writing to that effect."

This section needs little comment. It is a transcript of the law of 1860 (Proclamation No. 17) as afterwards amended. The Indians, although denied the right of pre-emption which the Act gave to other British subjects, were permitted to pre-empt Crown lands provided that the Governor was satisfied that they could fulfil the usual conditions upon which the land was sold. As late as

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1872, a Fort Langley Indian received permission to pre-empt 100 acres of land upon his practically proving that he could intelligently cultivate it. (Appendix A.) The above section is now in force, but the practice of giving these permissions has been discontinued, lest it should interfere with the Dominion policy of concentrating the Indians upon reserves.

Tracts of land or reserves were also set apart by the Crown for the use of some of the tribes. As an invariable rule they embraced the village sites, settlements, and cultivated lands of the Indians. Several of the reserves, though rich in soil and situated in the centre of white settlements, are however unfortunately unproductive to the country, owing partly to Indian indolence and partly to the attractions of good wages offered by the white population. . . .

The gravity of the interests directly involved in the applications of the Dominion for Provincial lands for the Indians will best be understood by reference to the following figures, and by contrasting them with the extent of land prescribed by the Terms of Union as they are interpreted.

For present purposes the Indian population may be assumed to be 40,000.

1st.—Terms of Union—Ten acres to each Indian family	80,000 Acres.	
2nd.—Twenty-first of March, 1873, request by Dominion for 80 acres of average quality for each family of five persons, and old reserves to be regulated accordingly, equal to . .	640,000	“
3rd.—In reply the Province offered twenty acres to each head of a family of five persons, which the Indian Department was authorized by the Dominion authorities to accept, equal to	160,000	“
4th.—Fifteenth May, 1874, in lieu of the above, a further request was made for twenty acres for each head of a family, or, as understood, for each Indian adult (the adults being about three-tenths of the Indian population), equal to	240,000	“

This was assented to in the case of future reserves ; but the Provincial Government declined to include past reserves in this agreement. They, however, offered to consider any special claim which might arise in respect of the latter.

Victoria, 17th August, 1875.

GEORGE A. WALKEM,
Attorney-General.

*Extracts from letter of British Columbia Joint-Commissioner Sproat to the Colonist, 20th October, 1877, printed in the Appendices to the Report of the Minister of the Interior (Canada) for 1877.**

It would be nearer the truth to say that a considerable time has been spent by the Commissioners in explaining to the Indians everywhere that it would be well for them to withdraw claims which they firmly made to white men's farms under supposed prior grants to the Indians from the old Colonial Governments, and that it was in the interest of both the white and the Indian people that a fair compromise should now be made and accepted, starting from the existing basis. This, of course, causes delay, and delay means money ; but the result will be worth the money. In every case, after a free and certainly a full discussion, I am glad to say that the above view of the propriety of a general compromise has been taken by the Indians. Their own requirements, afterwards, have been considered on business-like principles.

* [Sess. Papers, Canada, 1878, No. 10, p. lxxvi.]

*Extract from Report of the Deputy Superintendent-General of Indian Affairs, 31st December, 1877.**

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The labours of the Indian Reserve Commissioners in this Province will naturally be described in the report of the Minister of the Interior, and in the Appendix thereto. Suffice it to state that those Indian bands who have been allotted reserves, are, on the whole, satisfied with the land given them, and that the uneasy feeling which at one time existed among the Indians in connection with the reserve question has almost entirely subsided; and it is trusted that by a fair and liberal policy being adopted towards them by both Governments, the sentiment of loyalty will be perpetuated in the Indian mind of the Province.

The non-recognition in some instances by the Provincial Government of the title of the Indians to land occupied by them, has for some time agitated the minds of the Indians of this Province. Some of these lands have already been, and others are being sold, without reference to the Indian title thereto. Unless the equitable claims of the Indians in respect to the lands in question are recognized and met in a liberal spirit, serious trouble may be the result.

IMPERIAL ORDER IN COUNCIL RESPECTING THE PROVINCE OF BRITISH COLUMBIA.†

At the Court at Windsor, the 16th day of May, 1871.

PRESENT :

The QUEEN'S Most Excellent Majesty.

His Royal Highness Prince ARTHUR.

Lord Privy Seal.

Lord Chamberlain.

Earl Cowper.

Mr. Secretary Caldwell.

Earl of Kimberley.

Mr. Ayrton.

Whereas by *The British North America Act, 1867*, provision was made for the Union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that Colony into the said Union, on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act; And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada, and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-sixth section of the hereinbefore recited Act, to admit British Columbia into the Dominion of Canada, on the terms and conditions set forth in the said Addresses.

And whereas Her Majesty has thought fit to approve of the said terms and conditions, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, that from and after the twentieth day of July, one thousand eight hundred and seventy-one, the said Colony of British Columbia shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses.

* [Sess. Papers, Can., 1878, No. 10, p. 16.]

† Statutes of Canada, 1872, Prefix, p. liv.

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IDENTICAL TERMS, AS RESPECTS THE QUESTION OF THE INDIANS, OF THE ADDRESSES OF THE PARLIAMENT OF CANADA AND THE LEGISLATURE OF BRITISH COLUMBIA, REFERRED TO IN THE PRECEDING ORDER IN COUNCIL.*

(Sections 10, 11, 13.)

10. The provisions of *The British North America Act, 1867*, shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement, simultaneously, 10 within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia (not to exceed however, twenty (20) miles on each side of said line), as may be appropriated for the same purpose by the Dominion 20 Government from the public lands of the North-West Territories and the Province of Manitoba: Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 30 100,000 dollars per annum. in half-yearly payments in advance.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter 40 shall be referred for the decision of the Secretary of State for the Colonies.

*Statutes of Canada, 1872. Prefix, pp. lxxxviii., xevii., cvi.

CONDITIONS OF THE ROYAL GRANT OF THE ISLAND OF VANCOUVER TO THE HUDSON'S BAY
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(8) British
Columbia.

Now know ye, that we, being moved by the reasons before mentioned, do by these presents, for us, our heirs and successors, give, grant, and confirm unto the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, all that the said island called Vancouver's Island, together with all royalties of the seas upon the coasts within the limits aforesaid, and all mines royal thereto belonging: And further we do, by these presents, for us, our heirs and successors, make, create and constitute, the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territories, limits and
10 places, and of all other the premises (saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors for the same), to have, hold, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, royalties and appurtenances whatsoever to them, the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, in free and common soccage, at the yearly rent of 7s., payable to us and our successors for ever, on the 1st day of January in every year: Provided always, and we declare, That this present grant is made to the intent that the said Governor and Company shall establish upon the said island a settlement or settlements of resident colonists, emigrants from our United Kingdom of Great Britain and Ireland, or from other our dominions, and shall dispose of the land there as may be
20 necessary for the purposes of colonization, and to the intent that the said company shall, with a view to the aforesaid purposes, dispose of all lands hereby granted to them at a reasonable price, except so much thereof as may be required for public purposes: . . .

And we hereby declare, that this present grant is and shall be deemed and taken to be made upon this further condition, that we, our heirs and successors, shall have, and we accordingly reserve unto us and them, full power, at the expiration of the said Governor and Company's grant or license of or for the exclusive privilege of trading with the Indians, to re-purchase and take of and from the said Governor and Company the said Vancouver's Island and premises hereby granted, in consideration of payment being made by us, our heirs and successors, to the said Governor and Company, of the sum or sums of money theretofore laid out and expended by them in and upon
30 the said island and premises, and of the value of their establishments, property and effects then being thereon. . . .

9.—MANITOBA AND THE NORTH-WEST TERRITORIES.

(9) Manitoba
and N. W.
Territories.

THE SELKIRK TREATY.

THIS INDENTURE, made on the eighteenth day of July, in the fifty-seventh year of the reign of our Sovereign Lord King George the Third, and in the year of our Lord eighteen hundred and seventeen, between the undersigned Chiefs and warriors of the Chippeway or Saulteaux Nation and of the Killistine or Cree Nation, on the one part, and the Right Honourable Thomas Earl of Selkirk, on the other part:

Witnesseth, that for and in consideration of the annual present or quit rent hereinafter
40 mentioned, the said Chiefs have given, granted and confirmed, and do, by these presents, give, grant and confirm unto our Sovereign Lord the King all that tract of land adjacent to Red River and Ossiniboyne River, beginning at the mouth of Red River and extending along same as far as Great Forks at the mouth of Red Lake River, and along Ossiniboyne River, otherwise called Rivière des Champignons, and extending to the distance of six miles from Fort Douglas on every side, and likewise from Fort Doer, and also from the Great Forks and in other parts extending in breadth

* Macdonald's British Columbia and Vancouver, pp. 337-9.

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to the distance of two English statute miles back from the banks of the said rivers, on each side, together with all the appurtenances whatsoever of the said tract of land, to have and to hold forever the said tract of land and appurtenances to the use of the said Earl of Selkirk, and of the settlers being established thereon, with the consent and permission of our Sovereign Lord the King, or of the said Earl of Selkirk. Provided always, and these presents are under the express condition that the said Earl, his heirs and successors, or their agents, shall annually pay to the Chiefs and warriors of the Chippeway or Salteaux Nation, the present or quit rent consisting of one hundred pounds weight of good and merchantable tobacco, to be delivered on or before the tenth day of October at the Forks of Ossiniboyne River—and to the Chiefs and warriors of the Killistine or Cree Nation, a like present or quit rent of one hundred pounds of tobacco, to be 10 delivered to them on or before the said tenth day of October, at Portage de la Prairie, on the banks of the Ossiniboyne River. Provided always that the traders hitherto established upon any part of the above-mentioned tract of land shall not be molested in the possession of the lands which they have already cultivated and improved, till His Majesty's pleasure shall be known.

In witness whereof the Chiefs aforesaid have set their marks, at the Forks of Red River on the day aforesaid.

SELKIRK.

MACHE WHESEAB,	His x mark.	
	<i>Le Sonnant.</i>	
MECHKADDEWIKONAIE,	" x "	20
	<i>La Robe Noire.</i>	
KAYAJIESKEBINOA,	" x "	
	<i>L'Homme Noir.</i>	
PEGOWIS.	" x "	
OUCKIDOAT,	" x "	
	<i>Le Premier.</i>	

Signed in presence of

THOMAS THOMAS.

JAMES BIRD,

F. MATTHEY,

Captain.

P. D'ORSONNENS,

Captain.

MILES MACDONELL.

J. BTE. CHARLES DE LORIMIER.

30

LOUIS NOLIN,
Interpreter.

TREATY NUMBER ONE.

ARTICLES OF A TREATY, made and concluded this third day of August, in the year of our Lord, one thousand eight hundred and seventy-one, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioner, Wemyss M. Simpson, Esquire, of the one part, and the Chippewa and Swampy Cree Tribes of Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs, chosen and named as hereinafter mentioned, of the other part :

Whereas, all the Indians inhabiting the said country have, pursuant to an appointment made 40 by the said Commissioner, been convened at the Stone Fort, otherwise called Lower Fort Garry, to deliberate upon certain matters of interest to Her Most Gracious Majesty of the one part, and to the said Indians of the other; and whereas the said Indians have been notified and informed by Her Majesty's said Commissioner, that it is the desire of Her Majesty to open up to settlement and immigration a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of her Indian subjects inhabiting the said tract and to make a treaty and arrangements with them, so that there may be peace and good will between them and Her Majesty, and that they may know and be assured of what allowance they are to count upon and receive, year by year, from Her Majesty's bounty and benevolence,

And whereas the Indians of the said tract, duly convened in Council as aforesaid, and being requested by Her Majesty's said Commissioner to name certain Chiefs and head men, who should be authorized on their behalf to conduct such negotiations, and sign any treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance, by their respective bands, of such obligations as should be assumed by them the said Indians, have thereupon named the following persons for that purpose, that is to say: Mis-koo-kenew, or Red Eagle (Henry Prince); Ka-ke-ka-penais, or Bird for ever; Na-sha-ke-penais, or Flying down Bird; Na-na-wa-nana, or Centre of Bird's Tail; Ke-we-tayash, or Flying round; Wa-ko-wush, or Whip-poor-will; Oo-za-we-kwun, or Yellow Quill; and thereupon, in open Council, the different bands have presented their
 10 respective Chiefs to His Excellency the Lieutenant-Governor of the Province of Manitoba, and of the North-West Territory, being present at such Council, and to the said Commissioner, as the Chiefs and head men for the purposes aforesaid, of the respective bands of Indians inhabiting the said district, hereinafter described; and whereas the said Lieutenant-Governor and the said Commissioner, then and there received and acknowledged the persons so presented as Chiefs and head men, for the purposes aforesaid; and whereas the said Commissioner has proceeded to negotiate a treaty with the said Indians, and the same has finally been agreed upon and concluded as follows, that is to say:

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The Chippewa and Swampy Cree Tribes of Indians, and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender, and yield up to
 20 Her Majesty the Queen, and her successors for ever, all the lands included within the following limits, that is to say: Beginning at the International boundary line near its junction with the Lake of the Woods, at a point due north from the centre of Roseau Lake; thence to run due north to the centre of Roseau Lake; thence northward to the centre of White Mouth Lake, otherwise called White Mud Lake; thence by the middle of the lake and the middle of the river issuing therefrom, to the mouth thereof in Winnipeg River; thence by the Winnipeg River to its mouth; thence westwardly, including all the islands near the south end of the lake, across the lake to the mouth of the Drunken River; thence westwardly, to a point on Lake Manitoba, half way between Oak Point and the mouth of Swan Creek; thence
 30 across Lake Manitoba, on a line due west to its western shore; thence in a straight line to the crossing of the Rapids on the Assiniboine; thence due south to the International boundary line; and thence easterly by the said line to the place of beginning; to have and to hold the same to Her said Majesty the Queen, and her successors for ever; and Her Majesty the Queen, hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians, the following tracts of land, that is to say: For the use of the Indians belonging to the band of which Henry Prince, otherwise called Mis-koo-ke-new, is the Chief, so much of land on both sides of the Red River, beginning at the south line of St. Peter's Parish, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families; and for the use
 40 of the Indians of whom Na-sha-ke-penais, Na-na-wa-nanan, Ke-we-tayash, and Wa-ko-wush, are the Chiefs, so much land on the Roseau River, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, beginning from the mouth of the river; and for the use of the Indians, of which Ka-ke-ka-penais is the Chief, so much land on the Winnipeg River, above Fort Alexander, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, beginning at a distance of a mile or thereabout above the Fort; and for the use of the Indians, of whom Oo-za-we-kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, reserving also a further tract enclosing said reserve, to comprise an equivalent to twenty-five square miles of equal breadth, to be laid out round the reserve; it being understood,
 50 however, that if at the date of the execution of this treaty, there are any settlers within the bounds of any lands reserved by any band, Her Majesty reserves the right to deal with such settlers as she shall deem just, so as not to diminish the extent of land allotted to the Indians.

And with a view to show the satisfaction of Her Majesty with the behavior and good conduct

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of her Indians, parties to this treaty, she hereby, through her Commissioner, makes them a present of three dollars for each Indian man, woman and child belonging to the bands here represented.

And further, Her Majesty agrees to maintain a school on each reserve hereby made, whenever the Indians of the reserve should desire it.

Within the boundary of Indian Reserves, until otherwise enacted by the proper legislative authority, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve Her Majesty's Indian subjects, inhabiting the reserves or living elsewhere, from the evil influence of the use of intoxicating liquors, shall be strictly enforced.

Her Majesty's Commissioners shall, as soon as possible after the execution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the district above described, distributing them in families, and shall in every year ensuing the date hereof, at some period during the month of July in each year, to be duly notified to the Indians, and at or near the respective reserves, pay to each Indian family of five persons the sum of fifteen dollars Canadian currency, or in like proportion for a larger or smaller family, such payment to be made in such articles as the Indians shall require of blankets, clothing, prints (assorted colours), twine or traps, at the current cost price in Montreal, or otherwise, if Her Majesty shall deem the same desirable in the interests of her Indian people, in cash.

And the undersigned Chiefs do hereby bind and pledge themselves and their people strictly to observe this treaty, and to maintain perpetual peace between themselves and Her Majesty's white subjects, and not to interfere with the property or in any way molest the persons of Her Majesty's white or other subjects.

In witness whereof Her Majesty's said Commissioner and the said Indian Chiefs have hereunto subscribed and set their hand and seal, at the Lower Fort Garry, this day and year herein first above mentioned.

WEMYSS M. SIMPSON,	[L.S.]	
<i>Indian Commissioner.</i>		
MIS-KOO-KE-NEW (or Red Eagle)	His x mark.	
(Henry Prince).		
KA-KE-KA-PENNAIS (or Bird Forever)	" x "	
(William Pennefather).		30
NA-SHA-KE-PENNAIS (or Flying down Bird).	" x "	
NA-NA-WA-NANAN (or Centre of Bird's Tail).	" x "	
KE-WE-TAY-ASH (or Flying Round).	" x "	
WA-KO-WUSH (or Whip-poor-will).	" x "	
OI-ZA-WE-KWUN (or Yellow Quill).	" x "	

Signed, sealed and delivered in the presence of (the same having been first read and explained) :—

ADAMS G. ARCHIBALD,
Lieut.-Gov. of Manitoba and the N. W. Territories.

JAMES MCKAY, P.L.C.

A. G. IRVINE,
Major.

ABRAHAM COWLEY.

DONALD GUNN, M.L.C.

THOMAS HOWARD.

HENRY COCHRANE.

JAMES MCARRISTER.

HUGH MCARRISTER.

E. ALICE ARCHIBALD.

HENRY BOUTHILLIER.

EXTRACTS FROM REPORT OF J. A. N. PROVENCHER, INDIAN COMMISSIONER AT WINNIPEG, DATED
31ST DECEMBER, 1873.*

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Mr. St. John suggests in the annexed report that the Government should at once determine what they propose to give to the Indians, and that they make known their decision to them without going through the usual formalities of a contract liberally agreed to between two parties equally interested. This course will be much the more expeditious, and will considerably simplify the administration of affairs of this Department. It will curtail all those long discussions which seldom terminate in a perfect understanding.

10 The only objection to this system which presents itself is that it is opposed to the procedure adopted by every Government which has found itself in the same position and has to dispose of allowances of this nature.

The Indians of this Continent have always been considered, if not as proprietors, at least as occupants of the soil. It was always understood that they had rights as owners, and that the Crown would first have to extinguish those rights to afterwards assume full possession of the land. From this point of view there is a double right and a double interest which cannot be settled without the free consent of those interested.

It is as an act of indemnity for these rights, resulting from possession, that the Government pays the annuities to the Indians, and in return these latter limit their rights exclusively to the concessions preserved to them.

20 Their right in the reserve is precisely of the same nature as that which they had before the treaty over the whole territory, a right of undivided possession, without the power of selling or ceding it in any manner whatever. It requires special legislation to clothe them with the rights of full property, being that which usually accompanies the act of emancipation.

There are two modes wherein the Government may treat the Indian Nations who inhabit this territory. Treaties may be made with them simply with a view to the extinction of their rights, by agreeing to pay them a sum, and afterwards abandon them to themselves. On the other side, they may be instructed, civilized, and led to a mode of life more in conformity with the new position of the country, and accordingly make them good, industrious and useful citizens.

30 We have experienced a good deal of inconvenience from the reserves not having been yet surveyed, and consequently we could not oblige the Indians to betake themselves to the parts assigned to them, because they do not know their extent nor their exact position.

All the reserves have in the meantime been surveyed, and we have reason to believe that the difficulties which I have just mentioned will not again arise, or, at least, will be much diminished.

Many inhabitants of the St. Peter and Pembina reserves have made repeated representations to us on the subject of cutting wood on lands which they think form part of the reserves. From the most exact information we showed them that these complaints were without foundation, and that this wood was cut on private property, or what had at least always been considered as such.

40 Many Indians have acquired properties within the actual limits of the Reserves, before the treaties. They had cleared and improved them, and always thought they had the power to dispose of them, in virtue of a right of absolute property. Many of these lands were sold to whites, or to half-breeds, and it is this matter which now makes conflicting claims, which should be settled as soon as possible by a treaty, or by special legislation, or by an Order in Council.

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All property held by Indians within the limits of the Reserves may remain in the hands of the possessor, who would have full power, with right to dispose of it in favour of another member of the same band, but not in favour of persons who were strangers to the tribe.

In regard to those who, at the same time, possess properties outside of the Reserves, they should have permission to dispose of them in favour of whites, but only for the purpose of going to reside on the Reserve assigned to the band of which they are members.

All transfers of property should only be made with the consent of the Government, or of an officer of the Government duly authorized for that purpose. This measure is absolutely necessary to prevent fraud, and to ensure payment of a fair consideration.

REPORT OF COMMITTEE OF PRIVY COUNCIL (CANADA), APPROVED BY THE GOVERNOR-GENERAL, 10
10TH SEPTEMBER, 1874.

*(Application of Capt. H. Stewart Moore, for a timber limit of 25 or 30 square miles on the
Red River.)*

The acting Minister states that, as the Indian title to that locality has not yet been extinguished, Capt. Moore's request cannot be granted, but as the mills he intends erecting would greatly facilitate the settlement of the lands on that part of the Saskatchewan, he recommends that Capt. Moore be informed that should he carry out his intention of erecting mills, so soon as the Indians have surrendered that part of the North-West Territory his application will be granted, the area he asks for being very moderate.

EXTRACT FROM REPORT OF J. A. N. PROVENCHER, INDIAN COMMISSIONER AT WINNIPEG, 30TH 20
OCTOBER, 1875.*

The principle of the proprietary right, insomuch as it refers to the Indians, has been again revived in the several meetings which we had this year; and I mention this specially as from the manner of its acceptance will depend the system of administration to be adopted in this matter.

The Indians, as may be expected, claim the exclusive right of property to lands; they deny to the Government the right to possess without their consent; and, as a natural conclusion, reserve to themselves the right of stating their terms, and of selecting their reserves. On all questions which might arise in the future in reference to those rights, it follows that their opinions, their demands, and their interests ever ought to predominate.

There are many who for several reasons and in all good faith, do everything in their power to 30 keep the Indians in that belief. On the other hand, other parties, under the widespread belief that the Indians are useless to the country, and especially to their neighbours, maintain that they ought to be at most only tolerated, and that every restriction to their rights, claims and actions should be held as of advantage and benefit to the public.

Should the Indians ever come to the knowledge that such is the system to be followed regarding them, they would fall into a state of discouragement to be deplored as much in regard to themselves as to the Government. Should they lose faith in their rights or in the acknowledged obligations contracted towards them, they will shut themselves up to all inducement tending to better their condition; uncertain of their future, without any guarantee that the proceeds of their labour

* Sess. Papers, Can., 1876, No. 9, pp. 34, 35.

shall not be lost to them and their children, that the parcel of land which they are asked to improve shall not be taken away from them, they will relapse into a total unconcern, and depend on public charity for the means of sustenance.

The fact that the Government has treated with the Indians for their hunting grounds, is looked upon by them as an acknowledgment of their absolute right to the whole country, and this, along with the outside advice they receive, requires a good deal of caution and patience to bring them to understand the true meaning of these conventions, and the exact amount of the rights acknowledged.

The recent legislation of our country does not recognize the Indians as the proprietors of the 10 land, and, in its dispositions, has only kept in view the general interests of the public.

The Indians are subjects of the Crown, as well as other citizens, and as such have a right to the protection granted by the authorities to all the inhabitants of the country.

This protection manifests itself in several ways. All classes of citizens cannot prefer the same claims, since they are in proportion to their individual condition, and they can only claim at the hands of the authorities the sum of assistance necessary to their ordinary way of living.

This protection is not altogether beneficial, since its existence is in opposition to individual enterprise, without which there cannot be any economical progress.

According to these principles the Indians certainly have claims and rights to press upon the Government. They are British subjects: they have a right to a living; and consequently to all 20 that is necessary to secure it to them.

But it must not be believed that for this reason the Government is bound ever to provide for their wants; such a measure, let alone the expense, would be detrimental to the recipients thereof.

The interest shown towards them ought to manifest itself in the shape only of gratuities in proportion to their individual endeavors in the same sense. The advantages conferred ought to be considered by them, less as a payment for their former pursuits, which they abandon, than as an assurance of their future welfare under the new conditions pressed by circumstances and the state of the country.

Such are the ideas which I have endeavored to impress upon the Indians under my charge, and I have found it to be the only rational way to point to them the justice of the legislation which is 30 now to guide them.

10.—INDIAN RESERVES OF THE DOMINION, 1874-5.

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dated 28th January, 1875.**

INDIAN RESERVES IN THE PROVINCE OF ONTARIO.

No.	COUNTY.	LOCALITY.	ACRES.	
1	Hastings	Township of Tyendenaga, about	10,700	
2	Northumberland	do Alnwick, do	2,000	
3	Peterborough	do Smith	1,000	
4	Durham	do Cartwright	600	
5	Ontario	do Rama	1,600	10
6	do	Georgina and Beaver Islands, Lake Simcoe, about	5,500	
7	York	Snake Island, Lake Simcoe	Uncertain.	
8	Simcoe	Christian Island, and other Islands in Georgian Bay	12,000	
9	Bruce and Grey	Saugeen Peninsula, including Saugeen and Cape Croker Reserves	24,186	
10	Brant	Township of Tuscarora, and part Oneida	58,132	
11	Middlesex	do Delaware	5,400	
12	do	do Caradoc	12,075	
13	Kent	do Orford, about	4,000	
14	Essex	do Anderdon, about	8,000	
15	Kent	Walpole Island, about	10,000	20
16	Lambton	Township of Bosanquet	5,095	
17	do	do Sarnia	5,830	
18	Algoma	Manitoulin Islands	Not known.	
19	do	Garden River Reserve, about	24,000	
20	do	Batchewana Reserve	Not known.	
21	do	Mouth of Mississagua River		
22	do	Peninsula east of the mouth of Serpent River		
23	do	do Spanish River		
24	do	Mouth of White Fish River		
25	do	Near Lacroche		30
26	do	Point Grondines		
27	do	Ogawaning, on French River		
28	do	French River, near Lake Nipissing		
29	do	North shore of Lake Nipissing, and a tract forty miles inland from the Lake		
30	do	Henry's Inlet, on Georgian Bay		
31	do	River Maganatawan		
32	do	do Naiscoutaing		
33	do	do Shawenega		
34	do	Parry Island, Georgian Bay		40
35	do	Gros Cap, near Michipicoton, Lake Superior		
36	do	Near Fort William, Lake Superior, about	13,778	
37	do	Gull River, near Lake Nipigon	Not ascertained.	

INDIAN RESERVES IN THE PROVINCE OF QUEBEC.

1 & 2	Bonaventure	Townships of Monu and Maria	840	
3	Saguenay	Manicougan Reserve	70,000	
4	Chicoutimi	Ouitchouan Reserve	2,970	
5	do	Metabetchouan Reserve	4,000	
6	Quebec	Village of Lorette	59	
7	do	St. Gabriel Reserve	1,600	
8	Portneuf	Township of Rocmont	9,600	
9	Champlain	La Tuque, on the River St. Maurice	14,000	
10	Nicolet	Becancour	350	
11	Yamaska & Drummond	River St. Francis	750	50
12	Megantic	Township of Coleraine	2,000	
13	Laprairie	Seigniory of St. Louis, about	30,000	
14	Huntingdon	Township of Dundee, St. Regis	24,250	
15	Two Mountains	Seigniory of Lake of the Two Mountains, probably	16,000	
16	Montcalm	Township of Doncaster	16,000	
17	Ottawa	do Maniwaki	45,750	
18	Pontiac	Head of Lake Temiscamingue	38,400	
19	Islands	In the St. Lawrence, estimated	20,000	

*Sess. Papers, Can., 1875, No. 8, pp. 99-103.

INDIAN RESERVES IN THE PROVINCE OF NOVA SCOTIA.

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No.	COUNTY.	LOCALITY.	ACRES.
1	Victoria	Wagamatekook	650
2	Inverness	Why-kokomah	1,555
3	Cape Breton	Escosoni Bay	4,000
4	Inverness	Malegawatch and River St. Denis	1,200
5	Richmond	Chapel Island	1,281
6	Annapolis and Digby	Bear River	1,600
7	Annapolis	Cegumcega Lake, ten lots	400
8	do	New Liverpool Road	1,000
9	Queen's	Cegumcega Lake, seven lots	615
10	do	Liverpool River, four lots	400
11	do	Port Medway River	100
12	do	Port Medway River	1,150
13	Hants	West side of Shubenacadie Great Lake	1,000
14	do	Indian Brook	1,850
15	Halifax	Sambro	300
16	do	Ingram's River	325
17	do	Road from Sheet Harbor to Musquodabout	100
18	do	Ship Harbor, Great Lake	500
19	Lunenburg	New Germany	100
20	do	Near New Ross	1,000
21	do	Gold River	1,041
22	Cumberland	Adjoining Franklin Manor	1,000
23	Antigonishe	Pomquet Forks	525
24	Pictou	Straits of Northumberland	50
25	do	Fishers Grant	89

INDIAN RESERVES IN THE PROVINCE OF NEW BRUNSWICK.

No.	COUNTY.	PARISH.	LOCALITY.	ACRES.	
30	1	Northumberland	Northesk	N. W. Miramichi, "Indian Point"	8,580
	2	do	Newcastle	do "Eel Ground"	
	3	Restigouche	Dalhousie	Mouth of Eel River, Bay of Chaleurs	220
	4	Northumberland	Northesk	Forks of N. W. and Little S. W. Miramichi Rivers	5,100
	5	Victoria	Madawaska	River St. John, New Edmonton	100
	6	York	Kingsclear	River St. John, above Fredericton, "French Village"	
	7	See No. 4.			460
	8	Northumberland	Northesk	N. W. Miramichi, "Big Hole Tract"	6,800
	9	do	Alnwick	Mouth of Tabusatac River { North Bank	9,800
				{ South Bank	500
40	10	Victoria	St. Basil	River St. John, Forks of Iroquois River	800
	11	Gloucester	Bathurst	Nipisiquit River	1,000
	12	Northumberland	Blackville	Forks of S. W. Miramichi and Caius Rivers	100
	13	Gloucester	Inkerman	Pokemouche River	2,400
	14	Northumberland	Alnwick	Mouth of Burnt Church River	2,160
	15	Kent	Welford	Richibucto River	5,658
	16	do	Wellington	Buctouche River	4,655
	17	Westmoreland	Potsford	Gulf Shore, New Shediac	1,250
	18	King's	Kingston	Reserve not shewn on plan	
	19	Charlotte	St. James	Canous River	100
50	20	Victoria	Perth	Mouth of Tobique River	18,500
	21	Northumberland	Northesk	Great Bend, N. W. Miramichi	900

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INDIAN RESERVES IN THE PROVINCE OF MANITOBA AND THE NORTH-WEST TERRITORIES.

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*Indian Affairs
in the several
Provinces now
composing the
Dominion.*

(10) Reserves
of the Do-
minion.

No.	DISTRICT.	LOCALITY.	ACRES.	
1	Lisgar	South line of St. Peter's Parish		
2	do	Broken Head River	10,920	
3	Provencher	Roseau River	13,554	
4	Marquette	River Assiniboine, being parts of Townships 8 and 9 in Ranges 7 and 8, west of Winnipeg meridian	24,060	
5	N. W. Territories	Winnipeg River above Fort Alexander, total area	25,000	
		Less.—H. B. Co. Mission, Half-breed and White Claims. 5,750		
		Water	1,750	10
			7,500	
		Remaining for the Indians	17,500	
6	do	Between Turtle and Valley Rivers, on the south side of Lake Dauphin	Not surveyed.	
7	do	Crane River, running into Lake Manitoba	10,865	
8	do	Fairford River, between St. Martin's Lake and Lake Manitoba	Not surveyed.	
9	do	East side of Lake Manitoba, half way between Oak Point and Manitoba Post	do	
10	do	The Forks of the Assiniboine and Little Saskatchewan River	{ A tract further up the Sas- katchewan to be substituted.	
		RESERVED AS INDIAN FARMING LANDS.	Area.	20
11	.....	Discharge of Rainy Lake, near Fort Frances	1 square mile.	
12	.....	Nine miles below Rainy Lake, on Rainy River	do	
13	.....	Manito Rapids, on Rainy River	do	
14	.....	Long Rapids, on Rainy River	do	
15	.....	Hungry Hall, on Rainy River	do	
		WILD LAND RESERVED, TO BE DISPOSED OF FOR THE BENEFIT OF THE INDIANS.		
16	.....	A tract of about 18 miles above Hungry Hall, on the Rainy River.	36 square miles.	

INDIAN RESERVES IN THE PROVINCE OF BRITISH COLUMBIA.

1	Esquimalt	Esquimalt Harbour	47	30
2	do	Songee Village, near Victoria City	112	
3	Saanich, S.	Saanich Inlet	494	
4	do N.	Union Bay	69	
5	do N.	Cole Bay	315.02	
6	do S.	Bazan Bay	727	
7	Sooke	Sooke River	60	
8	Cowichan and Quami- chan	Cowichan River	2,675	
9	do do	do (not given).		
10	do do	Somers Creek	30	40
11	do do	Large Island, mouth of Chemanis River	139	
12	do do	Chemanis Creek	100	
13	do do	Nanaimo Harbour	40	
14	Nanaimo	Nanaimo River, east side	273	
15	do	do west side	131	
16	New Westminster	First Narrows, Burrard's Inlet	165	
17	do	Burrard's Inlet	37	
18	do	do	37.45	
19	do	do	112.46	
20	do	Near New Westminster	1	50
21	do	Coquiton River	18.40	
22	do	do	6.50	
23	do	Musquam, north of North arm of Fraser River	342	
24	do	Cheholes, west bank of Harrison River, 4 miles from its mouth	626	
25	do	Fraser River, 1½ miles below the mouth of Harrison River	658	
26	do	Wha Nock Reserve, on Fraser River	92	

INDIAN RESERVES IN THE PROVINCE OF BRITISH COLUMBIA.—Continued.

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*Indian Affairs
in the several
Provinces now
composing the
Dominion.*(10) Reserves
of the Do-
minion.

No.	DISTRICT OR DIVISION.	LOCALITY.	ACRES.
27	New Westminster.....	Motsqui Reserve, No. 1, on Fraser River	96
28	do	do do No. 2, do	52
29	do	Klat-waas do Nicaaamen Slough	86
30	do	Scoulitz Reserve, Fraser River, mouth of Harrison River	330
31	do	Nicoaamen Reserve	109
32	do	S. Que-aam Reserve	73
33	do	Sumas Reserve, No. (?) near Chodsey's Slough ..	43
34	do	do No. 1, Fraser River, Nicaaamen Slough ..	32
35	do	do Upper Forks of Sumas and Slough.....	440
36	do	Katzie Reserve on Fraser River.....	108
37	Yale.....	Ohamil do do 10 miles below Hope	488.50
38	do	Che-aham Reserve, left bank Fraser River, 20 miles below Hope...	375
39	do	Popkin do do 18 do ..	369
40	do	Squatils do do 13 do ..	380
41	do	Greenwood Island, opposite Hope.....	10
42	do	Lytton, mouth of Thompson River	14
43	do	South-east of the Town of Lytton	12
44	do	Two miles north of do	18
45	do	Stryan Reserve	297
46	do	Nohomeen Reserve, 1½ miles above Lytton ..	30
47	do	Ma-coi-yai do 1½ do below do	100
48	do	Nick-al-palm do 20 do above do	111
49	do	Shoo-ook do 36 do on Yale and Lytton Road	204.50
50	do	Sta-ujah-hanny Reserve, 43 miles on Yale and Lytton Road.....	40
51	do	Skop-ah Reserve, on Fraser River	58
52	do	Boston Bar, 24 miles on Yale and Lytton Road.....	82
53	do	Kopa-Chechin, 2½ miles above Boston Bar, Fraser River.....	205
54	do	Fraser River, 17 miles on Yale and Lytton Road	81
55	do	¼ mile below Alexandria Bridge, ¼ mile from Fraser River ..	19
56	do	2 do do left bank of Fraser River.....	51
57	do	Right bank of Fraser River, 10 miles on Yale and Lytton Road ..	110
58	do	Simikameen River, Vermilion Forks, right bank	21
59	do	do do do left do	342
60	Lytton	do do and Spellum-Cheen River (not given).	
61	Yale.....	Skowall Reserve, 7 miles below Hope	135
62	do	Albert Flat, 4 miles below Yale.....	163.50
63	do	Similkameen Reserve, half way between Princetown Keremeones, called Potatoe Garden.....	1,028
64	do	Spellum-Cheen Reserve, 1 mile from Spellum-Cheen River	200
65	do	do do left bank Fraser and Spellum-Cheen Rivers ..	18.50
66	do	Forks of Nicolai and Thompson Rivers	30.50
67	do	Nicaomeen Reserve, left bank Fraser River, 68 miles on Yale and Lytton Road	61
68	do	Dead Man's Creek	575
69	do	Bonaparte Creek	471
70	do	Nicolai Lake	670
71	do	do	60
72	do	Nicolai River.....	918
73	do	Shuswap Lake	3,112
74	do	do (about)	1,900
75	do	Kamloops River, at the Forks of N. and S. Thompson	6,000
76	do	Adams' Lake, east side.....	1,000

INDIAN RESERVES IN THE PROVINCE OF PRINCE EDWARD ISLAND.

1	Lennox Island.....	1,320
2	Tract in Township No. 39	189

VIII.

Miscellaneous.

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REPEATED PURCHASES OF THE SAME TRACTS OF LAND FROM THE INDIANS.

[Submitted on behalf of the Respondent.]

[Of the numerous instances of repeated purchases of the same tracts of land from the Indians, one of the best known is that of the lands on either side of the Susquehanna River, the papers regarding which being too voluminous to be printed, the following summary is submitted on behalf of the Respondent :—

- 1679—The Onondagas and Cayugas, claiming exclusive title to these lands by right of conquest, transfer their claims to the Government of New York. 10
- 1683—They confirm the sale to New York by formal conveyance.
- 1683—The Mohawks cede these lands to New York, notwithstanding the claim of exclusive title of the Onondagas and Cayugas.
- 1684—Confirmation of these lands to New York, at the Treaty of Albany, by the Five Nations.
- 1692—Deed of these lands from the Delawares to Pennsylvania.
- 1697—Transfer from New York to the Proprietary of Pennsylvania.
- 1730—Confirmatory deed, the Delawares to Pennsylvania.
- 1736—Cession, the Five Nations to Pennsylvania—consideration paid in part; and they covenant not to part with their claim to lands within that Province to any but 20 the Proprietaries.
- 1742—Balance of consideration paid.
- 1742—The Delawares, notwithstanding their two several conveyances in favour of Pennsylvania, still remain in adverse possession, but are ordered off by their conquerors, the Five Nations.
- 1744—Treaty of Lancaster—confirmation by the Five Nations, and their dependants, to Pennsylvania.
- 1754—Deed of these lands from the Five Nations to the Susquehanna Company of Connecticut.
- Connecticut now, as formerly New York, claimed jurisdiction over these lands 30 as being within the limits of its ancient Charter, prior in date to Penn's Charter, and by resolve of its General Assembly approved the objects of the Company; and after the declaration of the independence of the United States, Connecticut's title to the soil was established, but the jurisdiction remained with Pennsylvania.
- 1754 } Notwithstanding that Pennsylvania had already paid three several times for
1755 } these lands, viz., to Governor Dongan, of New York, to the resident Indians, and
to the Five Nations, that Province enters upon negotiations with the Five

Nations, through the Indian Superintendent, Sir William Johnson, for the cession as well of these as of all other lands within its limits.

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Colden's Five Nations, vol. 1, pp. 53-6.

do do vol. 2, pp. 34-5.

Douglass' Summary, vol. 2, p. 306.

Pennsylvania Archives, 1748-1756, pp. 147-8, 156-7, 273, 279, 303-4.

Minutes of Provincial Council of Pennsylvania, vol. 6, pp. 110-11, 113-14,
118, 124-5, 128-9, 171, 286-93.

Parkman's Conspiracy of Pontiac, vol. 1, pp. 80-2.

10 Trumbull's Hist. Conn., vol. 2, pp. 468-74, 478-480.

Brodhead's Hist. N. Y., vol. 2, pp. 166, 327-8, 376-7.

Another case is that of the Elizabethtown tract, in New Jersey, the first Indian sale of which was to the Dutch, whose title escheating to the British Crown, enured to the benefit of the proprietaries; the second, to the actual occupants, licensees in error of the Duke of York's Governor, Nicolls, (the Province having passed from the Duke to the new proprietaries before the issue of the licenses, and without advice to the Governor). These licensees persisted in maintaining possession, and refused to pay quit rents, giving rise to a costly litigation between them and the proprietaries, not concluded at the revolution.

20 Douglass' Summary, vol. 2, pp. 275-80.

Brodhead's Hist. N. Y., vol. 2, pp. 48-9.

Gordon's Hist. New Jer., pp. 27, 65, 66, 336, *Note O*.

Raum's do pp. 73-4.

New Jersey Hist. Soc. Coll., vol. 3, pp. 25, 26, 119, 123.

Opinion of eminent Counsel, 1674, in this case, Doc. Hist. N. Y., vol. 13, p. 486.

Another case is that of the lands south of the Ohio, extending from the Great Kanawha to the Cherokee River, ceded to the Crown, first, by the Five Nations of Indians at the Treaty of Fort Stanwix, 1768, and secondly, by the Cherokees at the Treaty of Lochaber, 1770. A still earlier cession of such portion of these as lay north and east of the Kentucky River had been obtained from these Southern Indians through the agency of Colonel Donaldson.

30 Albach's Annals, pp. 207, 208.

Doc. Hist. N. Y., vol. 8.

In further illustration of multiplied purchases of the same territory from the Indians, and of the reasons of policy moving to a compliance with their demands, the following quotations may be added]:—

PURCHASES BY THE GOVERNMENT OF CONNECTICUT, *circ.* 1639-1645.

(*From Palfrey's History of New England*).*

The Government of Connecticut was not less tender than that of New Haven of the rights of the Indians. Strict laws protected them from ill treatment on the part of the whites; and, to disabuse them of imaginary grounds of dissatisfaction, purchases of the same tracts were often
40 repeated.

(*From Trumbull's History of Connecticut*).†

Although the conquest of the Pequots extended the claim of Connecticut to a great proportion of the lands in the settled part of the Colony, yet, to remove all grounds of complaint or uneasiness, the English planters made fair purchases of almost the whole tract of country within the settled part of Connecticut.

After the conquest of the Pequots, in consequence of the covenant made with Uncas, in 1638, and the gift of 100 Pequots to him, he became important. A considerable number of Indians collected to him, so that he became one of the principal Sachems in Connecticut and even in New England.

* Vol. 2, p. 605.

† Vol. 1, pp. 116-120.

At sometimes he was able to raise four or five hundred warriors. As the Pequots were now conquered, and as he assisted in the conquest, and was a Pequot himself he laid claim to all that extensive tract called the Mohegan or Pequot country. Indeed, it seems he claimed, and was allowed to sell some part of that tract which was the principal seat of the Pequots. The Sachems in other parts of Connecticut, who had been counted by the Pequots, and made their allies, or tributaries, considered themselves, by the conquest of this haughty nation, as restored to their former rights. They claimed to be independent sovereigns, and to have a title to all the lands which they had at any time before possessed. The planters therefore, to show their justice to the heathen, and to maintain the peace of the country, from time to time purchased of the respective Sachems and their Indians, all the lands which they settled, excepting the towns of New London, 10 Groton and Stonington, which were considered as the peculiar seat of the Pequot nation. The inhabitants of Windsor, Hartford, and Weathersfield, either at the time of their settlement or soon after, bought all those extensive tracts which they settled of the natives, original proprietors of the country. Indeed, Connecticut planters generally made repeated purchases of their lands. The Colony not only bought the Mohegan of Uncas, but afterwards all the particular towns were purchased again, either of him or his successors, when the settlements in them commenced. Besides, the colony was often obliged to renew its leagues with Uncas and his successors, the Mohegan Sachems; and to make new presents and take new deeds, to keep friendship with the Indians and preserve the peace of the country.

Laws were enacted, both by Connecticut and New Haven, prohibiting all purchases of the 20 Indians, by private persons or Companies, without the consent of their respective general courts. These were to authorize and direct the manner of every purchase.

TREATY OF LANCASTER, BETWEEN THE SIX NATIONS AND THE PROVINCES OF PENNSYLVANIA, MARYLAND AND VIRGINIA, 1744.

Address of the Governor of Pennsylvania to the Commissioners of the other two Provinces.

(From Colden's Five Nations.) *

I hope, Honourable Gentlemen Commissioners, it will not be taken amiss if I go a little further, and briefly represent to you, how especially necessary it is at this juncture, for His Majesty's service, and the good of all his colonies in this part of his dominions, that peace and friendship be established between your Government and the Indians of the Six Nations. 30

These Indians by their situation, are a frontier to some of them; and, from thence, if friends, are capable of defending their settlements; if enemies, of making cruel ravages upon them; if neutrals, they may deny the French a passage through their country, and give us timely notice of their designs. These are but some of the motives for cultivating a good understanding with them; but from hence the disadvantages of a rupture are abundantly evident. Every advantage you gain over them in war, will be a weakening of the barrier of those colonies; and consequently be, in effect, victories over yourselves and your fellow subjects. Some allowances for their prejudices and passions, and a present now and then for the relief of their necessities, which have, in some measure, been brought upon them by their intercourse with us, and by our yearly extending our settlements, will probably tie them more closely to the British interest. This has been the method 40 of New York and Pennsylvania, and will not put you to so much expense in twenty years, as the carrying on a war against them will do in one. The French very well know the importance of these nations to us, and will not fail by presents and their other useful arts, to take advantage of any misunderstanding we may have with them.

[The Indians had complained of unauthorized settlement upon their lands in the back parts of Virginia and Maryland, with a threat of violent measures unless redress was given. The present meeting was called with a view, in part, to adjust this matter.]

Speech of the Six Nations to the Commissioners of Virginia.

(From Colden's Five Nations.) *

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We know very well, it hath often been said by the Virginians, that the Great King of England, and the people of that colony, conquered the Indians who lived there; but it is not true. We will allow they have conquered the Sachdagughroonaw, and drove back the Tuscarraws; and that they have, on that account, a right to some part of Virginia; but as to what lies beyond the mountains, we conquered the nations residing there, and that land, if the Virginians ever get a good right to it, it must be by us; and in testimony of the truth of our answer to this part of your speech, we give you this string of wampum.

Proceedings at the Treaty.

(From Douglass' Summary). †

10 The most noted congress with the Indian delegates for many years was that in June, 1744, held at Lancaster, in Pennsylvania, consisting of Commissioners from the three provinces of Pennsylvania, Maryland and Virginia, concerning a great variety of articles, such as quit-claiming of large tracts of lands to these Governments respectively, and receiving of presents upon their promise to assist the British interest in the war lately commenced against the French. . . .

2. The Indians complained that the Maryland and Virginia people had settled some land back of Virginia and Maryland, without consent of the Six Nations, or of any purchase made from them, which lands belong to the Six Nations by their conquest over the ancient Indian possessors. Hereupon the Indians, by an instrument in writing released all their lands in Maryland to the Maryland Commissioners for £300, in goods, valued in Pennsylvania currency. [*Author's Note.*—
20 About 100 years since, the Sequahanna, or Conastagoe Indians, by treaty, granted all the lands now possessed by the people of Maryland to them and their heirs, from Patuxen River to the west side of Chesapeake Bay, and from Choptank River on the east side of the said Bay.]

3. The Commissioners of Virginia gave the Indians £200, Pennsylvania currency, in goods, and £200 in gold, as a consideration for their deed recognizing the King of Great Britain's right to all the lands that are or shall be by His Majesty's appointment in the colony of Virginia; and the Indians desire that they may have a further consideration when the settlements increased much further back, which the Commissioners agreed to. The Six Indian Nations complain, the treaty above twenty years since, made at Albany, was not observed, viz., the middle or ridge of the hill on the back of Virginia, was fixed as a boundary between the Indians who live upon reserved lands in
30 Virginia, and the Indians of the Six Nations. Another article was to settle an Indian road to pass southward on the back of Virginia. Another article was, to bury in oblivion a skirmish which happened in the back parts of Virginia, between some of the Virginia militia there and a party of the Indian warriors of the Six Nations; upon this account the Commissioners of Virginia presented the Indians with goods to the value of £100 sterling.

4. As the French about this time were declaring war against Great Britain, to retain the Six Nations in the British interest, after a proper speech to the Indians, Pennsylvania made them a present, in goods, value £300, Pennsylvania currency; Virginia gave them goods to the value of £100 sterling, and £100 in gold. The Commissioners of Maryland presented the Indians with £100 in gold.

There are frequent congresses of the British provinces with the neighboring tribes or
40 nations of Indians, especially of the Provinces of New York and Pennsylvania, with the Six Nations of Iroquois, or Mohawks, to retain the Indians in the British interest; these have a good effect, though generally they are only a piece of formality with this conclusion, that the Indians were pleased with their presents, and promised fidelity. Sometimes affairs of consequence are transacted; thus, at Albany, in August and September, 1746, there was a treaty between Governor Clinton and council of the Province of New York, with Commissioners from the Province of

* Vol. 2, p. 71.

†Vol. 2, pp. 317-319.

Massachussets Bay, on the one part, and the six united nations of Indians, depending upon the Province of New York, on the other part, to engage these Indians in the British interest, against our enemies, the French, to be assisting in the expedition against Canada, to be furnished with arms, ammunition, clothing and provisions, and, in their absence, their wives and children to be taken care of.

MULTIPLICITY OF INDIAN GRANTS IN MICHIGAN, 1773-1794.

(*From Campbell's Political History of Michigan.*)*

There is very little of interest to be learned concerning the Michigan settlements during the revolutionary period. Under the illegal Indian grants, which the commandants had found it necessary or desirable to sanction (as their own were usually much larger than those of private citizens), settlements crept slowly along the great water-courses, reaching the St. Clair River to 10 the north and the Raisin on the south.

During the period of unlawful possession [by the British, 1783-1796], there was apparently no restraint put on the acquisition of Indian grants, and, unless the chiefs were ubiquitous, it appears in some cases as if no particular care was taken to be sure of their identity. Congress had at once, upon the peace, prohibited any such purchases. . . .

January 29th, 1795, the tribes made a preliminary treaty of peace at Greenville, with General Wayne. They appointed the next June, at the same place, for the final treaty. . . . The treaty was signed on the third of August. . . .

Between the treaties of January and August grants, or pretended grants, were obtained to Jonathan Schiefflin, Jacobus Visgar, Richard Pattinson, Robert Innis, Alexander Henry, John 20 Askin, Senior, John Askin, Junior, Robert MacNiff, William Robertson, Israel Ruland, and John Dodemead, of various parcels of land, covering the whole country from the Cuyahoga River westward to about the centre line of Michigan, and northward to Saginaw Bay, including all the land that was then supposed possibly available for settlement for ages. . . .

In 1797, he (Schiefflin), with Jacobus Visgar, Richard Pattinson and Robert Innis, sold their Indian title to the south-eastern part of Michigan to William S. Smith of New York City, for two hundred thousand pounds York currency, or half a million of dollars. . . .

During the year 1807, Governor Hull held a Council at Detroit with the Ottawas, Chippewas, Wyandots and Potawatamies, and a treaty was signed on the 17th day of November, whereby they ceded to the United States (excepting some small reserves) the country in the 30 southeast part of the Territory, bounded west by the principal meridian, which is about seventy-five miles west of Detroit River, running as far up as the latitude of the present Fort Gratiot, and thence northeast to White Rock in Lake Huron. This tract coincides very nearly with the land purchased from the Indians and sold by Schefflin and others to Smith in 1797.

[Then as regards our own country, the Iroquois or Five Nations, after their conquest and dispersion of the aboriginal tribes of Upper Canada, which then became their Beaver hunting-ground, surrendered, by deeds of 1701 and 1726, the whole of it to the British. Some remnants of the dispersed tribes having found their way back, under the protection of the French Government of Canada, the British, subsequent to, and notwithstanding their rights attained by the conquest and by virtue of the former cession, took surrenders anew, according to the exigencies of the public 40 requirements, of such portions of territory occupied by these late comers, as it was deemed good policy to thus deal with.

Doc. Hist. N. Y.. vol. 4, pp. 896-911 ; vol. 5, pp. 786-801.

Sched. of Surrenders, App. (T) to Journals Leg. Ass. Can. 1847.

Map shewing the Surrenders, same App. (T).

Sched. Surrenders, App. No. 21 to Jour. Leg. Ass. 1858.

Manitoulin Treaty, 1836.

Saugeen Treaty, 1836.

In 1817, the Crown, through the Earl of Selkirk, obtained a surrender of the lands on both sides of the Red and Assiniboine Rivers. In 1871, the Crown, through the Lieutenant-Governor of the North-West Territories, acting as the agent of the Dominion, obtained a surrender of the same, with additional lands.

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Selkirk Treaty, }
Treaty No. 1, } in Morris's Treaties.

In 1836, Sir F. B. Head obtained for the Crown, from the Chippewas and from the Ottawas, each of which tribes claimed to have the exclusive title, but the claims of both being denied by the Crown, which claimed exclusive title in itself, a surrender of the Manitoulin and other, smaller, 10 islands in Lake Huron.

Manitoulin Treaty, 1836.]

DOCUMENTS SHEWING THE SENSE IN WHICH THE WORD "RESERVES" AND
CORRESPONDING WORDS AND EXPRESSIONS HAVE BEEN UNDERSTOOD
AND USED IN THE VARIOUS PARTS OF NORTH AMERICA.

[Submitted on behalf of the Respondent.]

The Statutes of the Provinces and of the Dominion, bearing upon the matters in question, as collected in separate volume for this Case, and particularly pp. 28-30, 68-70, 73-4, 91, 94, 96-105, 109, 111-114, 119-126, 128-134, and the following in the same volume: 23 V. c. 151 (Can.); Proclamation of the Governor of Br. Col. 4th Jan., 1860; Ordinances of Br. Col. (revision of 1871) 20 Nos. 125, 144; the following pages may also be referred to: 20, 23-4, 36-38, 40, 45, 52-3, 55, 58-60, 67, 80, 82, 92-3.

Extract from the Proceedings of the Executive Council of Upper Canada, 1st April, 1793.

Extracts from the Minutes of the Executive Council of Nova Scotia, 1819, 1820.

Correspondence between the Secretary of State for the Colonies, and the Governors of the British North American Provinces respecting the Indians, ordered by the House of Commons to be printed, 17th June, 1839, and particularly pp. 4, 5, 7, 8, 22, 26, 30, 31, 76, 88, 139-143, 169.

Report of the Royal Commission on the Public Departments of Upper Canada—Report on the Indian Department, Jan.-Feb., 1840, and particularly pp. 29, 30, 34-39.

App. to Journals Ho. Ass., New Br., 1842, pp. [xcii-cxxi], cxxvi-viii.

30 Journals Ho. Ass., New Br., 1842, p. 6.

Journals Leg. Col., New Br., 1841-3, p. 501.

App. (EEE.) to Journals Leg. Ass., Can., 1844-5, and particularly pp. 16, 17, 20, 21, 23, 29-31, 37, 39, 41.

App. (T.) to Journals Leg. Ass., Can., 1847, and particularly pp. 17-19, 23, 42, 44, 99, 111, 112, 125, 141, 149.

Map appended to the Commissioners' Report in same Appendix, shewing the tracts surrendered and the Reserves.

The Lake Superior Treaty, 1850, and Schedule thereto.

The Lake Huron Treaty, 1850, and Schedule.

40 Return to an Address, etc., ordered by the House of Commons to be printed, 20th August, 1853, pp. 3-9.

App. to Journals Ho. Ass., New Br., 1857-8, p. cccclxxxiii.

App., No. 21, to Journals Ho. Ass., Can., 1858.

Sess. Paps., Br. Col., 1876, pp. 175-178, 181, 261, 265, 324-327.

Papers connected with the Indian Land Question, British Columbia.

App. No. 6, to Journals Ho. Ass., Nov. Scot., 1867, pp. 1, 2, 4.

App. II. to Journals Ho. Ass., New Br., 1867, pp. 170, 172.

App. II. to same Journals, 1868, p. vi.

App. No. 39, to Journals Ho. Ass., Nov. Scot., 1867, p. 1.

Stats. of Canada, 1872, Prefix, p. lxxxviii.

Sess. Paps., Can., 1876, No. 9, pp. xlvii-lii., lv., lvii.

Treaty No. 1.

Treaty No. 3, and the papers relating to it in Morris's Book of Treaties, and particularly pp. 44, 48, 50, 52, 58, 70, 71, 73.

Sess. Paps., Can., 1875, No. 8, pp. 99-103, Return G.

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U.S. Statutes at Large (Boston: Little, Brown & Co.), Vol. IV., p. 740; Vol. V., pp. 73, 186; Vol. VII., pp. 557-8, 559, 560, 601-2; Vol. XIII., pp. 40, 63, 432, 538, 623, 681, 693.

American State Papers, Indian Affairs, Vol. I., pp. 512, 545, 616, 617, 620, 641, 664, 668, 685; Vol. II., pp. 391, 545.

The papers above indicated, or a selection from them, appear (with one or two exceptions) in this Joint Appendix.

[A mass of evidence, too voluminous to print, extending over the whole period of the Colonial epoch of the now American States, shews that the practice indicated in the papers above referred to was founded upon, and a continuation of, that of the century and a half preceding the American Revolution.]

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EXTRACT FROM "THE TREATIES OF CANADA WITH THE INDIANS OF MANITOBA AND THE NORTH-WEST TERRITORIES," BY THE HON. ALEXANDER MORRIS, BEING CHAPTER V., NARRATING THE CIRCUMSTANCES OF THE SIGNING OF THE NORTH-WEST ANGLE TREATY.*

TREATY NUMBER THREE, OR THE NORTH-WEST ANGLE TREATY.

In the year 1871 the Privy Council of Canada issued a joint commission to Messrs. W. M. Simpson, S. J. Dawson and W. J. Pether, authorizing them to treat with the Ojibbeway Indians for the surrender to the Crown of the lands they inhabited—covering the area from the watershed of Lake Superior to the north-west angle of the Lake of the Woods, and from the American border to the height of land from which the streams flow towards the Hudson's Bay. This step had become necessary in order to make the route known as "the Dawson route," extending from Prince Arthur's Landing on Lake Superior to the north-west angle of the Lake of the Woods, which was then being opened up, "secure for the passage of emigrants and of the people of the Dominion generally," and also to enable the Government to throw open for settlement any portion of the land which might be susceptible of improvement and profitable occupation. The Commissioners accepted the appointment, and in July, 1871, met the Indians at Fort Francis.

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The tribes preferred claims for right of way through their country. The Commissioners reported "that they had admitted these to a limited extent and had made them presents in provisions and clothing and were also to pay them a small amount in money, it being fully and distinctly understood by the Indians that these presents and clothing were accepted by them as an equivalent for all past claims whatever." The Commissioners having explained to them fully the intentions of the Government as to obtaining a surrender of their territorial rights, and giving in return therefor reserves of land and annual payments, asked them to consider the proposals calmly and meet the Commissioners the succeeding summer to come to an arrangement. In 1872, the

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Indians were found not to be ready for the making of a treaty and the subject was postponed. In the year 1873 a commission was issued to the Hon. Alexander Morris, then Lieutenant-Governor of Manitoba and the North-West Territories, Lieut.-Col. Provencher, who had in the interval been appointed Commissioner of Indian Affairs in the place of Mr. Simpson, who had resigned, and Lindsay Russell, Esq., but the latter being unable to act, Mr. Dawson, now M.P. for Algoma, was appointed Commissioner in his stead. These Commissioners having accepted the duty confided to them, met the Indians at the north west angle of the Lake of the Woods in the end of September, 1873, and, after protracted and difficult negotiations, succeeded in effecting a treaty with them. A copy of the treaty will be found in the Appendix, and a brief record of the utterances of the
 10 Indians and of the Commissioners, which was taken down in shorthand by one of the soldiers of the militia force, is hereto subjoined. This treaty was one of great importance, as it not only tranquilized the large Indian population affected by it, but eventually shaped the terms of all the treaties, four, five, six and seven, which have since been made with the Indians of the North-West Territories—who speedily became apprised of the concessions which had been granted to the Ojibbeway nation. The closing scenes were striking and impressive. The chief speaker, Mawedo-pe-nais, thus winding up the conference on the part of the Indians, in his final address to the Lieutenant-Governor and his fellow Commissioners :

“ Now you see me stand before you all : what has been done here to-day has been done openly before the Great Spirit and before the nation, and I hope I may never hear any one say that this
 20 treaty has been done secretly : and now in closing this council, I take off my glove, and in giving you my hand I deliver over my birthright and lands : and in taking your hand I hold fast all the promises you have made, and I hope they will last as long as the sun rises and the water flows, as you have said.”

The conference then adjourned, and on re-assembling, after the treaty had been read and explained, the Commissioners signed it and the Lieutenant-Governor called on an aged hereditary Chief, Kee-ta-kay-pi-nais, to sign next. The Chief came forward, but declined to touch the pen, saying, “ I must first have the money in my hand.” The Lieutenant-Governor immediately held out his hand, and directed the interpreter to say to the chief, “ Take my hand and feel the money in it. If you cannot trust me for half an hour, do not trust me forever.” When this was repeated
 30 by the interpreter, the Chief smiled, took the outstretched hand, and at once touched the pen, while his mark was being made, his last lingering distrust having been effectively dispelled by this prompt action and reply. The other Chiefs followed, and then the interpreter was directed to tell Kee-ta-kay-pi-nais, the Chief, that he would be paid forthwith, but the Chief at once replied, “ Oh, no, it is evening now, and I wait till to-morrow.” The payments were duly made next day, and so was closed a treaty, whereby a territory was enabled to be opened up, of great importance to Canada, embracing as it does the Pacific Railway route to the North-West Territories—a wide extent of fertile lands, and, as is believed, great mineral resources. I now quote the official despatch of the Lieutenant Governor, dated the 14th October, 1873, in which will be found a full narrative of the proceedings, connected with the treaty, and a statement of the results thereby effected. I also
 40 submit a short-hand report of the negotiations connected with the treaty.

GOVERNMENT HOUSE,

FORT GARRY, October 14th, 1873.

SIR,—I have the honour to enclose copy of a treaty made by myself, Lieut.-Col. Provencher, Indian Agent, and S. J. Dawson, Esq., Commissioner, acting on behalf of Her Majesty, of the one part, and the Salteaux tribe of Ojibbeway Indians on the other, at the North-West Angle of the Lake of the Woods, on the 3rd of October, for the relinquishment of the Indian title to the tract of land therein described, and embracing 55,000 square miles. In the first place, the holding of the negotiation of the treaty had been appointed by you to take place at the North-West Angle before you requested me to take part therein, and Mr. Dawson had obtained the consent of the Indians to

meet there on the 10th of September, but they afterwards changed their minds, and refused to meet me unless I came to Fort Frances. I refused to do this, as I felt that the yielding to the demand of the Indians in this respect, would operate injuriously to the success of the treaty, and the results proved the correctness of the opinion I had formed. I therefore sent a special agent (Mr. Pierre Levaillier), to warn them that I would meet them as arranged at the North-West Angle on the 25th, or not at all this year, to which they eventually agreed.

I left here for the Angle on the 23rd September, and arrived there on the 25th, when I was joined by Messrs. Provencher and Dawson, the last named of whom I was glad to find had been associated with the Commissioners in consequence of the resignation of Mr. Lindsay Russell, thereby giving us the benefit as well of his knowledge of the country to be dealt with, as of the several bands of Indians therein. Mr. Pether, of Fort Frances, was also in attendance, and Mr. Provencher was accompanied by Mr. St. John, of his department. 10

On arriving, the Indians, who were already there, came up to the house I occupied, in procession, headed by braves bearing a banner and a Union Jack, and accompanied by others beating drums. They asked leave to perform a dance in my honour, after which they presented to me the pipe of peace. They were then supplied with provisions and returned to their camp. As the Indians had not all arrived, and for other reasons, the 26th, 27th and 28th were passed without any progress, but on the 29th I sent them word that they must meet the Commissioners next morning. Accordingly, on the 30th, they met us in a tent, the use of which I had obtained from the military authorities. I explained to them the object of the meeting, but as they informed me that they were not ready to confer with us, I adjourned the meeting until next day. On the 1st October they again assembled. The principal cause of the delay was divisions and jealousies among themselves. The nation had not met for many years, and some of them had never before been assembled together. They were very jealous of each other, and dreaded any of the chiefs having individual communications with me, to prevent which they had guards on the approaches to my house and Mr. Dawson's tent. On the 2nd October they again assembled, when I again explained the object of the meeting, through Mr. McPherson, an intelligent half-breed trader, whose services I secured. M. Chatelan, the Government interpreter, was also present. They had selected three spokesmen, and had also an Indian reporter, whose duty was to commit to memory all that was said. They had also secured the services of M. Joseph Nolin, of Point du Chene, to take notes in French of the negotiations, a copy of which notes I obtained from him and herewith enclose. The spokesmen informed me they would not treat as to the land until we settled with them as to the Dawson route, with regard to which they alleged Mr. Dawson had made promises which had not been kept, and that they had not been paid for the wood used in building the steamers, nor for the use of the route itself. Mr. Dawson explained that he had paid them for cutting wood, but had always asserted a common right to the use of wood and the water way. He asked them what promise had not been kept, and pointed out that the Government had twice before endeavoured to treat with them for a settlement of all matters. He referred them to me as to the general question of the use of the route. They were unable to name any promises which had not been kept. Thereupon I told them I came on behalf of the Queen and the Government of the Dominion of Canada to treat with them with regard to the lands and all other matters, but that they refused to hear what I had to say; they had closed my mouth; and as we would not treat except for the settlement of all matters past and future, I could not speak unless they asked me to do so. They conferred among themselves, and seeing that we were quite firm, the spokesman came forward and said that they would not close my mouth, after which they would make their demands. The Commissioners had had a conference and agreed, as they found there was no hope of a treaty for a less sum, to offer five dollars per head, a present of ten dollars, and reserves of farming and other lands not exceeding one square mile per family of five, or in that proportion, sums within the limits of our instructions, though I had private advices if possible not to give the maximum sum named, as the Government had been under a misapprehension as to amounts given to the bands in the United States. The chiefs heard my proposal, and the meeting adjourned until next day. On the 3rd October the chiefs 30 40 50

again assembled and made a counter proposition, of which I enclose a copy, being the demand they have urged since 1869. I also enclose an estimate I had made of the money value of the demand, amounting to \$125,000 per annum. On behalf of the Commissioners I at once peremptorily refused the demand. The spokesmen returned to the chiefs, who were arranged on benches, the people sitting on the ground behind them, and on their return they informed me that the chiefs, warriors and braves were of one mind, that they would make a treaty only if we acceded to their demand. I told them if so the conference was over, that I would return and report that they had refused to make a reasonable treaty, that hereafter I would treat with those bands who were willing to treat, but that I would advise them to return to the council and reconsider their determination before
10 next morning, when, if not, I should certainly leave. This brought matters to a crisis. The chief of the Lac Seul band came forward to speak. The others tried to prevent him, but he was secured a hearing. He stated that he represented four hundred people in the north; that they wished a treaty; that they wished a school-master to be sent them to teach their children the knowledge of the white man; that they had begun to cultivate the soil and were growing potatoes and Indian corn, but wished other grain for seed and some agricultural implements and cattle. This chief spoke under evident apprehension as to the course he was taking in resisting the other Indians, and displayed much good sense and moral courage. He was followed by the chief "Blackstone," who urged the other chiefs to return to the council and consider my proposals, stating that he was ready to treat, though he did not agree to my proposals nor to those made to me. I then told them
20 that I had known all along they were not united as they had said; that they ought not to allow a few chiefs to prevent a treaty, and that I wished to treat with them as a nation and not with separate bands, as they would otherwise compel me to do; and therefore urged them to return to their council, promising to remain another day to give them time for consideration. They spent the night in council, and next morning having received a message from M. Charles Nolin, a French half-breed, that they were becoming more amenable to reason, I requested the Hon. James McKay (who went to the Angle three times to promote this treaty), Charles Nolin and Pierre Levaillier to go down to the Indian council, and as men of their own blood, give them friendly advice. They accordingly did so, and were received by the Indians, and in about half an hour afterwards were followed by Messrs. Provencher and St. John, who also took part in the interview with the Council of Chiefs. The
30 chiefs were summoned to the conference by the sound of a bugle, and again met us, when they told me that the determination to adhere to their demands had been so strong a bond that they did not think it could be broken, but they had now determined to see if I would give them anything more.

The Commissioners had had a conference, and agreed previously to offer a small sum for ammunition and twine for nets, yearly—a few agricultural implements and seeds, for any band actually farming or commencing to farm, and to increase the money payment by two dollars per head if it should be found necessary in order to secure a treaty, maintaining permanent annuities at the sum fixed. The Indians on the other hand had determined on asking fifteen dollars, with some other demands. In fixing the ten dollars the Commissioners had done so as a sum likely to be accepted in view of three dollars per head having been paid the Indians the first year the Dawson
40 route was used, and that they had received nothing since. In reply to the Indians, I told them I was glad that they had reconsidered their decision, and that as they had done so, being desirous of inducing them to practise agriculture and to have the means of getting food if their fishing and hunting failed, we would give them certain implements, cattle and grain, once for all, and the extra two dollars per head of a money payment. This proposal was received favourably, but the spokesman again came forward and said they had some questions to ask before accepting my proposal. They wanted suits of clothing every year for all the bands, and fifty dollars for every Chief annually. This I declined, but told them that there were some presents of clothing and food which would be given them this year at the close of treaty. They then asked free passes forever over the Canada Pacific Railway, which I refused. They then asked that no "fire-water" should be sold on their
50 reserves, and I promised that a regulation to this effect should be introduced into the treaty. They then asked that they should not be sent to war, and I told them the Queen was not in the habit of employing the Indians in warfare. They asked that they should have power to put turbulent

men off their reserves, and I told them the law would be enforced against such men. They asked what reserves would be given them, and were informed by Mr. Povencher that reserves of farming and other lands would be given them as previously stated, and that any land actually in cultivation by them would be respected. They asked if the mines would be theirs; I said if they were found on their reserves it would be to their benefit, but not otherwise. They asked if an Indian found a mine would he be paid for it; I told them he could sell his information if he could find a purchaser like any other person. They explained that some of their children had married in the States, and they wished them to return and live among them, and wanted them included in the treaty. I told them the treaty was not for American Indians, but any *bona fide British Indians* of the class 10 they mentioned who should *within two years* be found *resident* on British soil would be recognized.

They said there were some ten to twenty families of half-breeds who were recognized as Indians, and lived with them, and they wished them included. I said the treaty was not for whites, but I would recommend that those families should be permitted the option of taking either status as Indians or whites, but that they could not take both. They asked that Mr. Charles Nolin should be employed as an Indian Agent, and I stated that I would submit his name to the Government with favourable mention of his services on that occasion. They asked that the Chiefs and head men, as in other treaties, should get an official suit of clothing, a flag, and a medal, which I promised. Mawedopenais produced one of the medals given to the Red River Chiefs, said it was not silver, and they were ashamed to wear it, as it turned black, and then, with an air of great 20 contempt, struck it with his knife. I stated that I would mention what he had said, and the manner in which he had spoken. They also stated the Hudson Bay Company had staked out ground at Fort Francis, on part of the land they claimed to have used, and to be entitled to, and I promised that enquiry would be made into the matter. They apologized for the number of questions put me, which occupied a space of some hours, and then the principal spokesman, Mawedopenais, came forward and drew off his gloves, and spoke as follows: "Now you see me stand before you all. What has been done here to-day, has been done openly before the Great Spirit, and before the nation, and I hope that I may never hear any one say that this treaty has been done secretly. And now, in closing this council, I take off my glove, and in giving you my hand, I deliver over my birthright, and lands, and in taking your hand I hold fast all the promises you 30 have made, and I hope they will last as long as the sun goes round, and the water flows, as you have said." To which I replied as follows: "I accept your hand, and with it the lands, and will keep all my promises, in the firm belief that the treaty now to be signed will bind the red man and the white man together as friends forever." The conference then adjourned for an hour to enable the text of the treaty to be completed, in accordance with the understanding arrived at. At the expiration of that period the conference was resumed, and after the reading of the treaty, and an explanation of it in Indian by the Hon. James McKay, it was signed by the Commissioners and by the several Chiefs, the first signature being that of a very aged hereditary Chief. The next day the Indians were paid by Messrs. Pether and Graham, of the Department of Public Works; the latter of whom kindly offered his services, as Mr. Provencher had to leave to keep another appoint- 40 ment. The negotiation was a very difficult and trying one, and required on the part of the Commissioners, great patience and firmness. On the whole I am of opinion that the issue is a happy one. With the exception of two bands in the Shebandowan district, whose adhesion was secured in advance, and the signatures of whose Chiefs Mr. Dawson left to secure, the Indian title has been extinguished over the vast tract of country comprising 55,000 square miles lying between the upper boundary of the Lake Superior treaty, and that of the treaty made by Mr. Commissioner Simpson at Manitoba Post, and embracing within its bounds the Dawson route, the route of the Canadian Pacific Railway, and an extensive lumber and mineral region.* It is fortunate, too, that the arrangement has been effected, as the Indians along the lakes and rivers were dissatisfied at the use of the waters, which they considered theirs, having been taken without compensation, so much 50 so indeed that I believe if the treaty had not been made, the Government would have been compelled to place a force on the line next year.

* Mr. Dawson succeeded in obtaining the adhesion to the treaty of the Chiefs in question.

Before closing this despatch, I have much pleasure in bearing testimony to the hearty co-operation and efficient aid the Commissioners received from the *Metis* who were present at the Angle, and who, with one accord, whether of French or English origin, used their influence which their relationships to the Indians gave them, to impress them with the necessity of their entering into the treaty. I must also express my obligations to the detachment of troops under the command of Captain Macdonald, assigned me as an escort, for their soldierly bearing and excellent conduct while at the Angle. Their presence was of great value, and had the effect of deterring traders from bringing articles of illicit trade for sale to the Indians; and moreover exercised a moral influence which contributed most materially to the success of the negotiations. I have further to add, 10 that it was found impossible, owing to the extent of the country treated for, and the want of knowledge of the circumstances of each band, to define the reserves to be granted to the Indians. It was therefore agreed that the reserves should be hereafter selected by officers of the Government, who should confer with the several bands, and pay due respect to the lands actually cultivated by them. A provision was also introduced to the effect that any of the reserves, or any interest in them, might hereafter be sold for the benefit of the Indians by the Government with their consent. I would suggest that instructions should be given to Mr. Dawson to select the reserves with all convenient speed; and, to prevent complication, I would further suggest that no patents should be issued, or licenses granted, for mineral or timber lands, or other lands, until the question of the reserves has been first adjusted.

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I have the honor to be, Sir,

Your obedient servant,

ALEXANDER MORRIS,
Lieut.-Governor.

Attention is called to the ensuing report of the proceedings connected with the treaty, extracted from the *Manitoban* newspaper of the 18th October, 1873, published at Winnipeg. The reports of the speeches therein contained were prepared by a short-hand reporter and present an accurate view of the course of the discussion, and a vivid representation of the habits of Indian thought.

NORTH-WEST ANGLE,

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September 30th, 1873.

The Lieutenant-Governor and party, and the other Commissioners appointed to negotiate a treaty with the Indians, arrived here on Thursday, 24th inst., having enjoyed delightful weather during the entire trip from Fort Garry. The Governor occupies the house of the officer in charge of the H. B. Post. The grounds around it have been nicely graded and cleared of brush, and surrounded by rows of evergreens planted closely, so as to completely screen the house from wind, and at the same time contribute much to relieve the monotony of the scenery. Immediately west of this, and likewise enclosed by walls of evergreens, is the large marquee used as a Council House, by the contracting parties; and immediately surrounding it to the north and west are the tents of the other officers of the Commission and the officers and men of the Volunteers on detachment duty.

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Situated to the eastward, and extending all along the river bank, are the tents of the Indians to the number of a hundred, with here and there the tent of the trader, attracted thither by the prospect of turning an honest penny by exchanging the necessaries of Indian life for such amounts of the price of their heritage as they can be induced to spend.

The natives now assembled here number about 800 all told, and hail from the places given below. Among them are many fine physically developed men, who would be considered good looking were it not for the extravagance with which they besmear their faces with pigments of all colours.

It was at first thought probable that the serious business of the meeting would be begun on Friday, but owing to the non-arrival of a large body of Rainy River and Lac Seul representatives, 50 it was decided to defer it until next day. Saturday came, and owing to the arrival of a messenger

from the Lac Seul band asking the Governor to wait for their arrival, proceedings have further stayed until Monday. But "hope deferred maketh the heart sick;" so the advent of Monday brought nothing but disappointment, and this, coupled with the disagreeable wet and cold weather that prevailed, made every one ill at ease if not miserable. The Chiefs were not ready to treat—they had business of their own to transact, which must be disposed of before they could see the Governor; and so another delay was granted. But Monday did not find them ready, and they refused to begin negotiations. An intimation from the Governor that unless they were ready on the following day he would leave for home on Wednesday, hurried them up a little—they did wait on him to-day, Tuesday, but only to say that they had not yet finished their own business, but that they would try and be ready to treat on Wednesday. And so the matter stands at 10 present—if the Indians agree amongst themselves, the treaty will be opened to-morrow; otherwise the Governor will strike camp and return to Fort Garry.

Divisions and local jealousies have taken possession of the Indian mind. The difficulties are the inability of the Indians to select a high or principal chief from amongst themselves, and as to the matter and extent of the demands to be made.

It is many years since these people had a general council, and in the interval many head men have died, while others have grown to man's estate, and feel ambitious to take part in the proceedings. But the fiat has gone forth, that unless a conclusion is arrived at to-morrow negotiations will be broken off for this year.

BOUNDARIES OF THE LANDS TO BE CEDED.

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Beginning at the North-West Angle eastward, taking in all the Lake of the Woods, including White Fish Bay, Rat Portage and north to White Dog in English River; up English River to Lake Seul, and then south-east to Lake Nepigon; westward to Rainy River and down it to Lake of the Woods, and up nearly to Lac des Mille Lacs; then beginning at the 49th parallel to White Mouth River, thence down it to the north, along the eastern boundary of the land ceded in 1871, embracing 55,000 square miles.

In the neighbourhood of Lac des Mille Lacs and Shebandowan are several bands, who have sent word that they cannot come as far as this point, but will accept the terms made at this treaty and ratify it with any one commissioner who will go there to meet them.

The whole number of Indians in the territory is estimated at 14,000, and are represented here 30 by Chiefs of the following bands:

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|---|---|
| 1. North-West Angle. | 7. Rainy Lake. |
| 2. Rat Portage. | 8. Beyond Kettle Falls, southward. |
| 3. Lake Seul. | 9. Eagle Lake. |
| 4. White Fish Bay on Lake of the Woods. | 10. Nepigon. |
| 5. Sha-bas-kang, or Grassy Narrows. | 11. Shoal Lake (three miles to the north
of this point). |
| 6. Rainy River. | |

NORTH-WEST ANGLE,

October 1, 1873.

The assembled Chiefs met the Governor this morning, as per agreement, and opened the proceedings of the day by expressing the pleasure they experienced at meeting the Commissioners 40 on the present occasion. Promises had many times been made to them, and, said the speaker, unless they were now fulfilled they would not consider the broader question of the treaty.

Mr. S. J. Dawson, one of the Commissioners, reciprocated the expression of pleasure used by the Chiefs through their spokesman. He had long looked forward to this meeting, when all matters relating to the past, the present, and the future, could be disposed of so as to fix permanently the friendly relations between the Indians and the white men. It was now, he continued,

some years since the white men first came to this country—they came in the first place at the head of a great military expedition ; and when that expedition was passing through the country all the chiefs showed themselves to be true and loyal subjects—they showed themselves able and willing to support their Great Mother the Queen. Subsequently, when we began to open up the road, we had to call upon the Indians to assist us in doing so, and they always proved themselves very happy to help in carrying out our great schemes. He was, he continued, one of the Commission employed by the Government to treat with them and devise a scheme whereby both white men and Indians would be benefited. We made to the Indians the proposals we were authorized to make, and we have carried out these proposals in good faith. This was three years ago. What we were
10 directed to offer we did offer, but the Indians thought it was too little, and negotiations were broken off. Since this I have done what was in my power to bring about this meeting with new terms, and consider it a very happy day that you should be assembled to meet the Governor of the Territory as representative of Her Majesty. He would explain to them the proposals he had to make. He had lived long amongst them and would advise them as a friend to take the opportunity of making arrangements with the Governor. When we arrange the general matters in question, should you choose to ask anything, I shall be most happy to explain it, as I am here all the time.

The Chief, in reply, said his head men and young men were of one mind, and determined not to enter upon the treaty until the promises made in the past were fulfilled, they were tired of
20 waiting. What the Commissioners called “small matters” were great to them, and were what they wished to have settled.

The route that had been built through the country proved this, and the Commissioners promised something which they now wanted.

This was taking the Commissioners on a new tack, but Mr. Dawson promptly undertook to answer the objections. He said all these questions had been discussed before ; but if he had made any promises that remained unfulfilled, he would be happy to learn their nature. The Chief replied that all the houses on the line, and all the big boats on the waters, were theirs, and they wanted to be recompensed for them.

Mr. Dawson continued, saying he was glad they had now come to a point on which they could deal. The Indians questioned the right of the Government to take wood for the steamers. This
30 was a right which the speaker had all along told them was common to all her Majesty’s subjects. He then referred them to the Governor if they had anything more to say on that subject. Wood on which Indians had bestowed labour was always paid for ; but wood on which we had spent our own labour was ours.

His Excellency then addressed them at some length. He understood they wanted to have the questions in which they were interested treated separately. This was not what he came there for. Wood and water were the gift of the Great Spirit, and were made alike for the good of both the white man and red man. Many of his listeners had come a long way, and he, too, had come a long way, and he wanted all the questions settled at once, by one treaty. He had a message from the Queen, but if his mouth was kept shut, the responsibility would rest on the Indians, and not
40 with him if he were prevented from delivering it. He had authority to tell them what sum of money he could give them in hand now, and what he could give them every year ; but it was for them to open his mouth. He concluded his remarks, which were forcibly delivered, with an emphatic “I have said.”

The chief reiterated that he and his young men were determined not to go on with the treaty until the first question was disposed of. What was said about the trees and rivers was quite true, but it was the Indian’s country, not the white man’s. Following this the Governor told the Council that unless they would settle all the matters, the big and little, at once, he would not talk. He was bound by his Government, and was of the same mind to treat with them on all questions, and not on any one separately.

On seeing His Excellency so firm, and feeling that it would not do to allow any more time to pass without coming to business, the Chief asked the Governor to open his mouth and tell what propositions he was prepared to make.

His Excellency then said—"I told you I was to make the treaty on the part of our Great Mother the Queen, and I feel it will be for your good and your children's. I should have been very sorry if you had shut my mouth, if I had had to go home without opening my mouth. I should not have been a true friend of yours if I had not asked you to open my month. We are all children of the same Great Spirit, and are subject to the same Queen. I want to settle all matters both of the past and the present, so that the white and red man will always be friends. I will give you lands for farms, and also reserves for your own use. I have authority to make reserves such as I 10 have described, not exceeding in all a square mile for every family of five or thereabouts. It may be a long time before the other lands are wanted, and in the meantime you will be permitted to fish and hunt over them. I will also establish schools whenever any band asks for them, so that your children may have the learning of the white man. I will also give you a sum of money for yourselves and every one of your wives and children for this year. I will give you ten dollars per head of the population, and for every other year five dollars a-head. But to the chief men, not exceeding two to each band, we will give twenty dollars a-year for ever. I will give to each of you this year a present of goods and provisions to take you home, and I am sure you will be satisfied."

After consultation amongst themselves, the Councillors went to have a talk about the matter and will meet the Governor to-morrow morning, when it is expected the bargain will be concluded. 20 Of course the Indians will make some other demands.

Immediately after the adjournment as above, the Governor presented an ox to the people in camp; and the way it disappeared would have astonished the natives of any other land. Half-an-hour after it was led into encampment, it was cut up and boiling in fifty pots.

THIRD DAY.

Proceedings were opened at eleven o'clock by the Governor announcing that he was ready to hear what the Chiefs had to say. The Fort Frances Chief acted as spokesman, assisted by another Chief, Powhassan.

MA-WE-DO-PE-NAIS—"I now lay down before you the opinions of those you have seen before. We think it a great thing to meet you here. What we have heard yesterday, and as you represented 30 yourself, you said the Queen sent you here, the way we understood you as a representative of the Queen. All this is our property where you have come. We have understood you yesterday that Her Majesty has given you the same power and authority as *she* has, to act in this business; you said the Queen gave you her goodness, her charitableness in your hands. This is what we think, that the Great Spirit has planted us on this ground where we are, as you were where you came from. We think where we are is our property. I will tell you what he said to us when he planted us here; the rules that we should follow—us Indians—He has given us rules that we should follow to govern us rightly. We have understood you that you have opened your charitable heart to us like a person taking off his garments and throwing them to all of us here. Now, first of all, I have a few words to address to this gentleman (Mr. Dawson). When he understood rightly what was my meaning yesterday, he threw himself on your help. I think 40 I have a right to follow him to where he flew when I spoke to him on the subject yesterday. We will follow up the subject from the point we took it up. I want to answer what we heard from you yesterday, in regard to the money that you have promised us yesterday to each individual. I want to talk about the rules that we had laid down before. It is four years back since we have made these rules. The rules laid down are the rules that they wish to follow—a council that has been agreed upon by all the Indians. I do not wish that I should be required to say twice what I am now going to lay down. We ask fifteen dollars for all that you see, and for the children that are to

be born in future. This year only we ask for fifteen dollars ; years after \$10 ; our Chiefs fifty dollars per year for every year, and other demands of large amounts in writing, say \$125,000 yearly."

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ANOTHER CHIEF—"I take my standing point from here. Our councillors have in council come to this conclusion, that they should have twenty dollars each ; our warriors, fifteen dollars, our population, fifteen dollars. We have now laid down the conclusion of our councils by our decisions. We tell you our wishes are not divided. We are all of one mind." (Paper put in before the Governor for these demands.)

CHIEF—"I now let you know the opinions of us here. We would not wish that anyone
10 should smile at our affairs, as we think our country is a large matter to us. If you grant us what is written on that paper, then we will talk about the reserves ; we have decided in council for the benefit of those that will be born hereafter. If you do so the treaty will be finished, I believe."

GOVERNOR—"I quite agree that this is no matter to smile at. I think that the decision of to-day is one that affects yourselves and your children after, but you must recollect that this is the third time of negotiating. If we do not shake hands and make our Treaty to-day, I do not know when it will be done, as the Queen's Government will think you do not wish to treat with her. You told me that you understood that I represented the Queen's Government to you and that I opened my heart to you, but you must recollect that if *you* are a council there is another
20 great council that governs a great Dominion, and they hold their councils the same as you hold yours. I wish to tell you that I am a servant of the Queen. I cannot do my own will ; I must do hers. I can only give you what she tells me to give you. I am sorry to see that your hands were very wide open when you gave me this paper. I thought what I promised you was just, kind and fair between the Queen and you. It is now three years we have been trying to settle this matter. If we do not succeed to-day I shall go away feeling sorry for you and for your children that you could not see what was good for you and for them. I am ready to do what I promised you yesterday. My hand is open and you ought to take me by the hand and say, "yes, we accept of your offer." I have not the power to do what you ask of me. I ask you once more to think what you are doing, and of those you have left at home, and also
30 of those that may be born yet, and I ask you not to turn your backs on what is offered to you, and you ought to see by what the Queen is offering you that she loves her red subjects as much as her white. I think you are forgetting one thing, that what I offer you is to be while the water flows and the sun rises. You know that in the United States they only pay the Indians for twenty years, and you come here to-day and ask for even more than they get for twenty years. Is that just ? I think you ought to accept my offer, and make a treaty with me as I ask you to do. I only ask you to think for yourselves, and for your families, and for your children and children's children, and I know that if you do that you will shake hands with me to-day."

CHIEF—"I lay before you our opinions. Our hands are poor but our heads are rich, and it is riches that we ask so that we may be able to support our families as long as the sun rises and the
40 water runs."

GOVERNOR—"I am very sorry ; you know it takes two to make a bargain ; you are agreed on the one side, and I for the the Queen's Government on the other. I have to go away and report that I have to go without making terms with you. I doubt if the Commissioners will be sent again to assemble this nation. I have only one word more to say ; I speak to the Chief and to the head men to recollect those behind them, and those they have left at home, and not to go away without accepting such liberal terms and without some clothing."

CHIEF—"My terms I am going to lay down before you ; the decision of our Chiefs ; ever since we came to a decision you push it back. *The sound of the rustling of the gold is under my feet where I stand ;* we have a rich country ; it is the Great Spirit who gave us this ; where we

stand upon is the Indians' property, and belongs to them. If you grant us our requests you will not go back without making the treaty."

ANOTHER CHIEF—"We understood yesterday that the Queen had given you the power to act upon, that you could do what you pleased, and that the riches of the Queen she had filled your head and body with, and you had only to throw them round about; but it seems it is not so, but that you have only half the power that she has, and that she has only half filled your head."

GOVERNOR—"I do not like to be misunderstood. I did not say yesterday that the Queen had given me all the power; what I told you was that I was sent here to represent the Queen's Government, and to tell you what the Queen was willing to do for you. You can understand very well; for instance, one of your great chiefs asks a brave to deliver a message, he represents you, 10 and that is how I stand with the Queen's Government."

CHIEF—"It is your charitableness that you spoke of yesterday—Her Majesty's charitableness that was given you. It is our chiefs, our young men, our children and great grandchildren, and those that are to be born, that I represent here, and it is for them I ask for terms. The white man has robbed us of our riches, and we don't wish to give them up again without getting something in their place."

GOVERNOR—"For your children, grandchildren, and children unborn, I am sorry that you will not accept of my terms. I shall go home sorry, but it is your own doing; I must simply go back and report the fact that you refuse to make a treaty with me."

CHIEF—"You see all our chiefs before you here as one mind; we have one mind and one 20 mouth. It is the decision of all of us; if you grant us our demands you will not go back sorrowful; we would not refuse to make a treaty if you would grant us our demands."

GOVERNOR—"I have told you already that I cannot grant your demands; I have not the power to do so. I have made you a liberal offer, and it is for you to accept or refuse it as you please."

CHIEF—"Our chiefs have the same opinion; they will not change their decision."

GOVERNOR—"Then the Council is at an end."

CHIEF (of Lac Seul)—"I understand the matter that he asks; if he puts a question to me as well as to others, I say so as well as the rest. We are the first that were planted here; we would ask you to assist us with every kind of implement to use for our benefit, to enable us to perform 30 our work; a little of everything and money. We would borrow your cattle; we ask you this for our support; I will find whereon to feed them. The waters out of which you sometimes take food for yourselves, we will lend you in return. If I should try to stop you—it is not in my power to do so; even the Hudson's Bay Company—that is a small power—I cannot gain my point with it. If you give what I ask, the time may come when I will ask you to lend me one of your daughters and one of your sons to live with us; and in return I will lend you one of my daughters and one of my sons for you to teach what is good, and after they have learned, to teach us. If you grant us what I ask, although I do not know you, I will shake hands with you. This is all I have to say."

GOVERNOR—"I have heard and I have learned something. I have learned that you are not all of one mind. I know that your interests are not the same—that some of you live in the north 40 far away from the river; and some live on the river, and that you have got large sums of money for wood that you have cut and sold to the steamboats; but the men in the north have not this advantage. What the Chief has said is reasonable; and should you want goods I mean to ask you what amount you would have in goods, so that you would not have to pay the traders' prices for them. I wish you were all of the same mind as the Chief who has just spoken. He wants his children to be taught. He is right. He wants to get cattle to help him to raise grain for his children. It would be a good thing for you all to be of his mind, and then you would not go away without making this treaty with me."

BLACKSTONE (Shebandowan)—“ I am going to lay down before you the minds of those who are here. I do not wish to interfere with the decisions of those who are before you, or yet with your decisions. The people at the height of land where the waters came down from Shebandowan to Fort Frances, are those who have appointed me to lay before you our decision. We are going back to hold a Council.”

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Mr. DAWSON—“ I would ask the Chief who has just spoken, did the band at Shebandowan—did Rat McKay, authorize him to speak for them? Ke-ha-ke-ge-nen is Blackstone's own Chief; and I am perfectly willing to think that he authorized him. What I have to say is that the Indians may not be deceived by representations made to them, and that the two bands met me at
10 Shebandowan and said they were perfectly willing to enter into a treaty.”

GOVERNOR—“ I think the nation will do well to do what the Chief has said. I think he has spoken sincerely, and it is right for them to withdraw and hold a Council among themselves.”

Blackstone here handed in a paper which he alleged gave him authority as Chief, but which proved to be an official acknowledgment of the receipt of a letter by the Indian Department at Ottawa.

The Governor here agreed with the Council that it would be well for the Chiefs to have another meeting amongst themselves. It was a most important day for them and for their children, and His Excellency would be glad to meet them again.

The Council broke up at this point, and it was extremely doubtful whether an agreement
20 could be come to or not. The Rainy River Indians were careless about the treaty, because they could get plenty of money for cutting wood for the boats, but the northern and eastern bands were anxious for one. The Governor decided that he would make a treaty with those bands that were willing to accept his terms, leaving out the few disaffected ones. A Council was held by the Indians in the evening, at which Hon. James McKay, Pierre Léveillé, Charles Nolin, and Mr. Genton were present by invitation of the Chiefs. After a very lengthy and exhaustive discussion, it was decided to accept the Governor's terms, and the final meeting was announced for Friday morning. Punctually at the appointed time proceedings were opened by the Fort Frances Chiefs announcing to His Excellency that they were all of one mind, and would accept his terms, with a
30 few modifications. The discussion of these terms occupied five hours, and met every possible contingency so fully that it would be impossible to do justice to the negotiators otherwise than by giving a full report of the speeches on both sides; but want of space compels us to lay it over until next week.

The treaty was finally closed on Friday afternoon, and signed on Saturday; after which a large quantity of provisions, ammunition and other goods were distributed.

When the Council broke up last (Thursday) night, 3rd October, it looked very improbable that an understanding could be arrived at, but the firmness of the Governor, and the prospect that he would make a treaty with such of the bands as were willing to accept his terms, to the exclusion of the others, led them to reconsider their demands. The Hon. James McKay, and Messrs. Nolin, Genton, and Léveillé were invited into their council, and after a most exhaustive discussion of the
40 circumstance in which they were placed, it was resolved to accept the Governor's terms, with some modifications. Word was sent to this effect, and at eleven o'clock on Friday, conference was again held with His Excellency.

The Fort Frances Chief opened negotiations by saying :—“ We present our compliments to you, and now we would tell you something. You have mentioned our councillors, warriors and messengers—every Chief you see has his councillors, warriors and messengers.”

GOVERNOR—“ I was not aware what names they gave me—they gave their chief men. I spoke of the subordinates of the head Chiefs; I believe the head Chiefs have three subordinates—I mean the head Chief and three of his head men.”

CHIEF—"I am going to tell you the decision of all before you. I want to see your power and learn the most liberal terms that you can give us."

GOVERNOR—"I am glad to meet the Chiefs, and I hope it will be the last time of our meeting. I hope we are going to understand one-another to-day; and that I can go back and report that I left my Indian friends contented, and that I have put into their hands the means of providing for themselves and their families at home; and now I will give you my last words. When I held out my hands to you at first, I intended to do what was just and right, and what I had the power to do *at once*,—not to go backwards and forwards, but at once to do what I believe is just and right to you. I was very much pleased yesterday with the words of the Chief of Lac Seul. I was glad to hear that he had commenced to farm and to raise things for himself and family, and I was glad 10 to hear him ask me to hold out my hand. I think we should do everything to help you by giving you the means to grow some food, so that if it is a bad year for fishing and hunting you may have something for your children at home. If you had not asked it the Government would have done it all the same, although I had not said so before. I can say this, that when a band settles down and actually commences to farm on their lands, the Government will agree to give two hoes, one spade, one scythe, and one axe for every family actually settled; one plough for every ten families; five harrows for every twenty families; and a yoke of oxen, a bull and four cows for every band; and enough barley, wheat and oats to plant the land they have actually broken up. This is to enable them to cultivate their land, and it is to be given them on their commencing to do so, once 20 for all. There is one thing that I have thought over, and I think it is a wise thing to do. That is to give you ammunition, and twine for making nets, to the extent of \$1,500 per year, for the whole nation, so that you can have the means of procuring food. Now, I will mention the last thing that I can do. I think that the sum I have offered you to be paid after this year for every man, woman and child now, and for years to come, is right and is the proper sum. I will not make any change in that, but we are anxious to show you that we have a great desire to understand you—that we wish to do the utmost in our power to make you contented, so that the white and the red man will always be friends. This year, instead of ten dollars we will give you twelve dollars, to be paid you at once as soon as we sign the treaty. This is the best I can do for you. I wish you to understand we do not come here as traders, but as representing the Crown, and to do what we believe is just and right. We have asked in that spirit, and I hope you will meet me in that spirit and shake 30 hands with me to-day and make a treaty for ever. I have no more to say.

CHIEF—"I wish to ask some points that I have not properly understood. We understand that our children are to have two dollars extra. Will the two dollars be paid to our principal men as well? And these things that are promised will they commence at once and will we see it year after year?"

GOVERNOR—"I thought I had spoken fully as to everything, but I will speak again. The ammunition and twine will be got at once for you, *this year*, and that will be for every year. The Commissioner will see that you get this at once; with regard to the things to help you to farm, you must recollect, in a very few days the river will be frozen up here and we have not got these things here now. But arrangements will be made next year to get these things for those who are 40 farming, it cannot be done before as you can see yourselves very well. Some are farming, and I hope you will all do so."

CHIEF—"One thing I did not say that is most necessary—we want a cross-cut saw, a whip saw, grindstone and files."

GOVERNOR—"We will do that, and I think we ought to give a box of common tools to each Chief of the Band."

CHIEF—"Depending upon the words you have told us, and stretched out your hands in a friendly way, I depend upon that. One thing more we demand—a suit of clothes to all of us."

GOVERNOR—"With regard to clothing, suits will be given to the Chiefs and head men, and as to the other Indians there is a quantity of goods and provisions here that will be given them at the close of the treaty. The coats of the Chiefs will be given every three years."

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CHIEF—"Once more ; powder and shot will not go off without guns. We ask for guns."

GOVERNOR—"I have shewn every disposition to meet your view, but what I have promised is as far as I can go."

CHIEF—"My friends, listen to what I am going to say, and you my brothers. We present you now with our best and our strongest compliments. We ask you not to reject some of our children who have gone out of our place ; they are scattered all over, a good tasted meat hath drawn them 10 away, and we wish to draw them all here and be contented with us."

GOVERNOR—"If your children come and live here, of course they will become part of the population, and be as yourselves."

CHIEF—"I hope you will grant the request that I am going to lay before you. I do not mean those that get paid on the other side of the line, but some poor Indians who may happen to fall in our road. If you will accept of these little matters, the treaty will be at an end. I would not like that one of my children should not eat with me, and receive the food that you are going to give me."

GOVERNOR—"I am dealing with British Indians and not American Indians ; after the treaty is closed we will have a list of the names of any children of British Indians that may come in 20 during two years and be ranked with them ; but we must have a limit somewhere."

CHIEF—"I should not feel happy if I was not to mess with some of my children that are around me—those children that we call the Half-breed—those that have been born of our women of Indian blood. We wish that they should be counted with us, and have their share of what you have promised. We wish you to accept our demands. It is the Half-breeds that are actually living amongst us—those that are married to our women."

GOVERNOR—"I am sent here to treat with the Indians. In Red River, where I came from, and where there is a great body of Half-breeds, they must be either white or Indian. If Indians, they get treaty money ; if the Half-breeds call themselves white, they get land. All I can do is to refer the matter to the Government at Ottawa, and to recommend what you wish to be granted."

30 CHIEF—"I hope you will not drop the question ; we have understood you to say that you came here as a friend, and represented your charitableness, and we depend upon your kindness. You must remember that our hearts and our brains are like paper ; we never forget. There is one thing that we want to know. If you should get into trouble with the nations, I do not wish to walk out and expose my young men to aid you in any of your wars."

GOVERNOR—"The English never call the Indians out of their country to fight their battles. You are living here and the Queen expects you to live at peace with the white men and your red brothers, and with other nations."

40 ANOTHER CHIEF—"I ask you a question—I see your roads here passing through the country, and some of your boats—useful articles that you use for yourself. Bye and bye we shall see things that run swiftly, that go by fire—carriages—and we ask you that us Indians may not have to pay their passage on these things, but can go free."

GOVERNOR—"I think the best thing I can do is to become an Indian. I cannot promise you to pass on the railroad free for it may be a long time before we get one ; and I cannot promise you any more than other people."

CHIEF—"I must address myself to my friend here, as he is the one that has the Public Works."

MR. DAWSON—"I am always happy to do anything I can for you. I have always given you a passage on the boats when I could. I will act as I have done though I can give no positive promise for the future."

CHIEF—"We must have the privilege of travelling about the country where it is vacant."

MR. MCKAY—"Of course, I told them so."

CHIEF—"Should we discover any metal that was of use, could we have the privilege of putting our own price on it?"

GOVERNOR—"If any important minerals are discovered on any of their reserves the minerals will be sold for their benefit with their consent, but not on any other land that discoveries may take place upon; as regards other discoveries, of course, the Indian is like any other man. He can sell his information if he can find a purchaser."

CHIEF—"It will be as well while we are here that everything should be understood properly between us. All of us—those behind us—wish to have their reserves marked out, which they will point out, when the time comes. There is not one tribe here who has not laid it out."

COMMISSIONER PROVENCHER (the Governor being temporarily absent)—"As soon as it is convenient to the Government to send surveyors to lay out the reserves they will do so, and they will try to suit every particular band in this respect."

CHIEF—"We do not want anybody to mark out our reserves, we have already marked them out."

COMMISSIONER—"There will be another undertaking between the officers of the Government and the Indians among themselves for the selection of the land; they will have enough of good farming land, they may be sure of that."

CHIEF—"Of course, if there is any particular part wanted by the public works they can shift us. I understand that; but if we have any gardens through the country, do you wish that the poor man should throw it right away?"

COMMISSIONER—"Of course not."

CHIEF—"These are matters that are the wind-up. I begin now to see how I value the proceedings. I have come to this point, and all that are taking part in this treaty and yourself. I would wish to have all your names in writing handed over to us. I would not find it to my convenience to have a stranger here to transact our business between me and you. It is a white man who does not understand our language that is taking it down. I would like a man that understands our language and our ways. We would ask your Excellency as a favor to appoint him for us."

GOVERNOR—"I have a very good feeling to Mr. C. Nolin, he has been a good man here; but the appointment of an agent rests with the authorities at Ottawa and I will bring your representation to them, and I am quite sure it will meet with the respect due to it."

CHIEF—"As regards the fire water, I do not like it and I do not wish any house to be built to have it sold. Perhaps at times if I should be unwell I might take a drop just for medicine; and shall any one insist on bringing it where we are, I should break the treaty."

GOVERNOR—"I meant to have spoken of that myself, I meant to put it in the treaty. He speaks good about it. The Queen and her Parliament in Ottawa have passed a law prohibiting the use of it in this territory, and if any shall be brought in for the use of you as medicine it can only come in by my permission."

CHIEF—"Why we keep you so long is that it is our wish that everything should be properly understood between us."

GOVERNOR—"That is why I am here. It is my pleasure, and I want when we once shake hands that it should be forever."

CHIEF—"That is the principal article. If it was in my midst the fire water would have spoiled my happiness, and I wish it to be left far away from where I am. All the promises that you have made me, the little promises and the money you have promised, when it comes to me year after year—should I see that anything is wanting, through the negligence of the people that have to see after these things, I trust it will be in my power to put them in prison."

GOVERNOR—"The ear of the Queen's Government will always be open to hear the complaints of her Indian people, and she will deal with her servants that do not do their duty in a proper manner."

CHIEF—"Now you have promised to give us all your names. I want a copy of the treaty
10 that will not be rubbed off, on parchment."

GOVERNOR—"In the meantime I will give you a copy on paper, and as soon as I get back I will get you a copy on parchment."

CHIEF—"I do not wish to be treated as they were at Red River—that provisions should be stopped as it is there. Whenever we meet and have a council I wish that provisions should be given to us. We cannot speak without eating."

GOVERNOR—"You are mistaken. When they are brought together at Red River for their payments they get provisions."

CHIEF—"We wish the provisions to come from Red River."

GOVERNOR—"If the Great Spirit sends the grasshopper and there is no wheat grown in Red
20 River, we cannot give it to you."

CHIEF—"You have come before us with a smiling face, you have shewn us great charity—you have promised the good things; you have given us your best compliments and wishes, not only for once but for ever; let there now for ever be peace and friendship between us. It is the wish of all that where our reserves are peace should reign, that nothing shall be there that will disturb peace. Now, I will want nothing to be there that will disturb peace, and will put every one that carries arms,—such as murderers and thieves—outside, so that nothing will be there to disturb our peace."

GOVERNOR—"The Queen will have policemen to preserve order, and murderers and men guilty of crime will be punished in this country just the same as she punishes them herself."

CHIEF—"To speak about the Hudson's Bay Company. If it happens that they have surveyed where I have taken my reserve, if I see any of their signs I will put them on one side."

GOVERNOR—"When the reserves are given you, you will have your rights. The Hudson's Bay Company have their rights, and the Queen will do justice between you."

CHIEF OF FORT FRANCIS—"Why I say this is, where I have chosen for my reserve I see signs that the Hudson's Bay Company has surveyed. I do not hate them. I only wish they should take their reserves on one side. Where their shop stands now is my property; I think it is three years now since they have had it on it."

GOVERNOR—"I do not know about that matter; it will be enquired into. I am taking notes of all these things and am putting them on paper."

CHIEF—"I will tell you one thing. You understand me now, that I have taken your hand
40 firmly and in friendship. I repeat twice that you have done so, that these promises that you have made, and the treaty to be concluded, let it be as you promise, as long as the sun rises over our head and as long as the water runs. One thing I find, that deranges a little my kettle. In this river, where food used to be plentiful for our subsistence, I perceive it is getting scarce. We wish that the river should be left as it was formed from the beginning—that nothing be broken."

GOVERNOR—"This is a subject that I cannot promise."

MR. DAWSON—"Anything that we are likely to do at present will not interfere with the fishing, but no one can tell what the future may require, and we cannot enter into any engagement."

CHIEF—"We wish the Government would assist us in getting a few boards for some of us who are intending to put up houses this fall, from the mill at Fort Frances."

GOVERNOR—"The mill is a private enterprise, and we have no power to give you boards from that."

CHIEF—"I will now show you a medal that was given to those who made a treaty at Red River by the Commissioner. *He* said it was silver, but *I* do not think it is. I should be ashamed to carry it on my breast over my heart. I think it would disgrace the Queen, my mother, to wear her image on so base a metal as this. [Here the Chief held up the medal and struck it with the back of his knife. The result was anything but the 'true ring,' and made every man ashamed of the petty meanness that had been practised.] Let the medals you give us be of silver—medals that shall be worthy of the high position our Mother the Queen occupies." 10

GOVERNOR—"I will tell them at Ottawa *what* you have said, and *how* you have said it."

CHIEF—"I wish you to understand you owe the treaty much to the Half-breeds."

GOVERNOR—"I know it. I sent some of them to talk with you, and I am proud that all the Half-breeds from Manitoba, who are here, gave their Governor their cordial support."

The business of the treaty having now been completed, the Chief, Mawedopenais, who, with Powhassan, had with such wonderful tact carried on the negotiations, stepped up to the Governor 20 and said :—

"Now you see me stand before you all; what has been done here to-day has been done openly before the Great Spirit, and before the nation, and I hope that I may never hear any one say that this treaty has been done secretly; and now, in closing this Council, I take off my glove, and in giving you my hand, I deliver over my birth-right and lands; and in taking your hand, I hold fast all the promises you have made, and I hope they will last as long as the sun goes round and the water flows, as you have said."

The Governor then took his hand and said :

"I accept your hand and with it the lands, and will keep all my promises, in the firm belief that the treaty now to be signed will bind the red man and the white together as friends for ever." 30

A copy of the treaty was then prepared and duly signed, after which a large amount of presents consisting of pork, flour, clothing, blankets, twine, powder and shot, etc., were distributed to the several bands represented on the ground.

On Saturday, Mr. Pether, Local Superintendent of Indian Affairs at Fort Frances, and Mr. Graham of the Government Works, began to pay the treaty money—an employment that kept them busy far into the night. Some of the Chiefs received as much as one hundred and seventy dollars for themselves and families.

As soon as the money was distributed the shops of the Hudson's Bay Company, and other resident traders were visited, as well as the tents of numerous private traders, who had been attracted thither by the prospect of doing a good business. And while these shops all did a great trade—the Hudson's Bay Company alone taking in \$4,000 in thirty hours—it was a noticeable fact that many took home with them nearly all their money. When urged to buy goods there, a frequent reply was: "If we spend all our money here and go home and want debt, we will be told to get our debt where we spent our money." "Debt" is used by them instead of the word "credit." Many others deposited money with white men and Half-breeds on whose honour they could depend, to be called for and spent at Fort Garry when "the ground froze."

One very wonderful thing that forced itself on the attention of every one was the perfect order that prevailed throughout the camp, and which more particularly marked proceedings in the council. Whether the demands put forward were granted by the Governor or not, there was no petulance, no ill-feeling, evinced; but everything was done with a calm dignity that was pleasing to behold, and which might be copied with advantage by more pretentious deliberative assemblies.

On Sunday afternoon, the Governor presented an ox to the nation, and after it had been eaten a grand dance was indulged in. Monday morning the river Indians took passage on the steamer for Fort Francis, and others left in their canoes for their winter quarters.

The Governor and party left on Monday morning, the troops, under command of Captain McDonald, who had conducted themselves with the greatest propriety, and had contributed, by the moral effect of their presence, much to the success of the negotiation, having marched to Fort Garry on Saturday morning.

THE NORTH-WEST ANGLE TREATY—TREATY NUMBER THREE.*

ARTICLES OF A TREATY made and concluded this third day of October, in the year of Our Lord one thousand eight hundred and seventy-three, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners, the Honourable Alexander Morris, Lieutenant-Governor of the Province of Manitoba and the North-West Territories; Joseph Albert Norbert Provencher, and Simon James Dawson, of the one part; and the
20 Saulteaux tribe of the Ojibbeway Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs, chosen and named as hereinafter mentioned, of the other part:

Whereas the Indians inhabiting the said country have, pursuant to an appointment made by the said Commissioners, been convened at a meeting at the North-West angle of the Lake of the Woods, to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other;

And whereas the said Indians have been notified and informed by Her Majesty's said Commissioners, that it is the desire of Her Majesty to open up for settlement, immigration, and such other purposes as to Her Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of her Indian subjects inhabiting the said
30 tract, and to make a treaty and arrange with them, so that there may be peace and good will between them and Her Majesty, and that they may know and be assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence;

And whereas, the Indians of the said tract, duly convened in Council, as aforesaid, and being requested by Her Majesty's said Commissioners to name certain Chiefs and head men, who should be authorized on their behalf to conduct such negotiations, and sign any treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have thereupon named the following persons for that purpose, that is to say:—Kee-tak-pay-pi-nais (Rainy River), Kitihi-gay-lake (Rainy River), Note-na-qua-hung (North-West Angle), Mawe-do-pe-nais (Rainy River),
40 Pow-wa-sang (North-West Angle), Canda-com-igo-wi-ninie (North-West Angle), Pa-pa-ska-gin (Rainy River), May-no-wah-tau-ways-kung (North-West Angle), Kitchi-ne-ka-be-han (Rainy River), Sah-katch-eway (Lake Seul), Muka day-wah-sin (Kettle Falls), Me-kie-sies (Rainy Lake, Fort Frances), Oos-con-na-geist (Rainy Lake), Wah-shis-kince (Eagle Lake), Rah-kie-y-ash (Flower Lake), Go-bay (Rainy Lake), Ka-me-ti-ash (White Fish Lake), Nee sho-tal (Rainy River), Kee-gee-go-kay (Rainy River), Sha-sha-gance (Shoal Lake), Shah-win-na-bi-nais (Shoal Lake), Ay-ash-a-wash (Buffalo Point), Pay-ah-be-wash (White Fish Bay), Rah-tay-tay-pa-o-cutch (Lake of the Woods).

* Morris's Treaties, pp. 320-9.

And thereupon in open council the different bands having presented their Chiefs to the said Commissioners as the Chiefs and head men for the purposes aforesaid of the respective bands of Indians inhabiting the said district hereinafter described.

And whereas the said Commissioners then and there received and acknowledged the persons so presented as Chiefs and head men for the purposes aforesaid of the respective bands of Indians inhabiting the said district hereinafter described ;

And whereas the said Commissioners have proceeded to negotiate a treaty with the said Indians, and the same has been finally agreed upon and concluded as follows, that is to say :

The Saulteaux tribe of the Ojibbeway Indians, and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender, and yield up to the Govern- 10
ment of the Dominion of Canada, for Her Majesty the Queen and her successors for ever, all their rights, titles and privileges whatsoever to the lands included within the following limits, that is to say :

Commencing at a point on the Pigeon River route where the international boundary line between the territories of Great Britain and the United States intersects the height of land separating the waters running to Lake Superior from those flowing to Lake Winnipeg, thence northerly, westerly and easterly, along the height of land aforesaid, following its sinuosities, whatever their course may be, to the point at which the said height of land meets the summit of the water shed from which the streams flow to Lake Nepigon, thence northerly and westerly, or whatever may be its course along the ridge separating the waters of the Nepigon and the Winnipeg 20
to the height of land dividing the waters of the Albany and the Winnipeg, thence westerly and north-westerly along the height of land dividing the waters flowing to Hudson's Bay by the Albany or other rivers from those running to English River and the Winnipeg to a point on the said height of land bearing north forty-five degrees east from Fort Alexander at the mouth of the Winnipeg ; thence south forty-five degrees west to Fort Alexander at the mouth of the Winnipeg ; thence southerly along the eastern bank of the Winnipeg to the mouth of White Mouth River ; thence southerly by the line described as in that part forming the eastern boundary of the tract surrendered by the Chippewa and Swampy Cree tribes of Indians to Her Majesty on the third of August, one thousand eight hundred and seventy-one, namely, by White Mouth River to White Mouth Lake and thence on a line having the general bearing of White Mouth River to the forty- 30
ninth parallel of north latitude ; thence by the forty-ninth parallel of north latitude to the Lake of the Woods, and from thence by the international boundary line to the place of beginning.

The tract comprised within the lines above described embracing an area of fifty-five thousand square miles, be the same more or less.

To have and to hold the same to Her Majesty the Queen and her successors forever.

And Her Majesty the Queen hereby agrees and undertakes to lay aside reserves for farming lands, due respect being had to lands at present cultivated by the said Indians, and also to lay aside and reserve for the benefit of the said Indians, to be administered and dealt with for them by Her Majesty's Government of the Dominion of Canada, in such a manner as shall seem best, other reserves of land in the said territory hereby ceded, which said reserves shall be selected and set 40
aside where it shall be deemed most convenient and advantageous for each band or bands of Indians, by the officers of the said Government appointed for that purpose, and such selection shall be so made after conference with the Indians : Provided, however, that such reserve whether for farming or other purposes shall in nowise exceed in all one square mile for each family of five, or in that proportion for larger or smaller families, and such selection shall be made if possible during the course of next summer or as soon thereafter as may be found practicable, it being understood, however, that if at the time of any such selection of any reserves as aforesaid, there are any settlers within the bounds of the lands reserved by any band, Her Majesty reserves the right to deal with such settlers as she shall deem just, so as not to diminish the extent of land

allotted to Indians; and provided also that the aforesaid reserves of lands or any interest or right therein or appurtenant thereto, may be sold, leased or otherwise disposed of by the said Government for the use and benefit of the said Indians, with the consent of the Indians entitled thereto first had and obtained.

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And with a view to show the satisfaction of Her Majesty with the behavior and good conduct of her Indians, she hereby, through her Commissioners, makes them a present of twelve dollars for each man, woman and child belonging to the bands here represented, in extinguishment of all claims heretofore preferred.

And further, Her Majesty agrees to maintain schools for instruction in such reserves hereby
10 made as to her Government of her Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it.

Her Majesty further agrees with her said Indians, that within the boundary of Indian reserves, until otherwise determined by the Government of the Dominion of Canada, no intoxicating liquors shall be allowed to be introduced or sold, and all laws now in force, or hereafter to be enacted to preserve her Indian subjects inhabiting the reserves, or living elsewhere within her North-West Territories, from the evil influence of the use of intoxicating liquors shall be strictly enforced.

Her Majesty further agrees with her said Indians, that they, the said Indians, shall have right
20 to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by her Government of her Dominion of Canada, and saving and excepting such tracts as may from time to time, be required or taken up for settlement, mining, lumbering or other purposes, by her said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefor by the said Government.

It is further agreed between Her Majesty and her said Indians that such sections of the reserves above indicated as may at any time be required for public works or buildings, of what nature soever, may be appropriated for that purpose by Her Majesty's Government of the Dominion of Canada, due compensation being made for the value of any improvement thereon.

And further, that Her Majesty's Commissioners shall, as soon as possible, after the execution
30 of this treaty, cause to be taken an accurate census of all the Indians inhabiting the tract above described, distributing them in families, and shall in every year ensuing the date hereof at some period in each year, to be duly notified to the Indians, and at a place or places to be appointed for that purpose within the territory ceded, pay to each Indian person the sum of five dollars per head yearly.

It is further agreed between Her Majesty and the said Indians, that the sum of fifteen hundred dollars per annum shall be yearly and every year expended by Her Majesty in the purchase of ammunition, and twine for nets for the use of the said Indians.

It is further agreed between Her Majesty and the said Indians, that the following articles shall be supplied to any band of the said Indians who are now actually cultivating the soil, or who
40 shall hereafter commence to cultivate the land, that is to say—two hoes for every family actually cultivating; also one spade per family as aforesaid; one plough for every ten families as aforesaid; five harrows for every twenty families as aforesaid; one scythe for every family as aforesaid; and also one axe and one cross-cut saw, one hand saw, one pit saw, the necessary files, one grindstone, one auger for each band, and also for each Chief for the use of his band, one chest of ordinary carpenters' tools; also for each band, enough of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such band; also for each band, one yoke of oxen, one bull and four cows; all the aforesaid articles to be given once for all for the encouragement of the practice of agriculture among the Indians.

It is further agreed between Her Majesty and the said Indians, that each Chief, duly recognized as such, shall receive an annual salary of twenty-five dollars per annum, and each subordinate officer, not exceeding three for each band, shall receive fifteen dollars per annum; and each such Chief and subordinate officer as aforesaid shall also receive, once in every three years, a suitable suit of clothing; and each Chief shall receive, in recognition of the closing of the treaty, a suitable flag and medal.

And the undersigned Chiefs, on their own behalf and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will, in all respects obey and abide by the law; that they will maintain peace and good order between each other, and also between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians or whites, now inhabiting or hereafter to inhabit any part of the said ceded tract; and that they will not molest the person or property of any inhabitant of such ceded tract, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tract or any part thereof; and that they will aid and assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded.

In witness whereof, Her Majesty's said Commissioners and the said Indian Chiefs have hereunto subscribed and set their hands, at the north-west angle of the Lake of the Woods, this day and 20 year herein first above-named.

ALEXANDER MORRIS, [L. S.]
Lieutenant-Governor.

J. A. N. PROVENCHER,
Indian Commissioner.

S. J. DAWSON,
Indian Commissioner.

	His	x	Mark.	
KEE-TA-KAY-PI-NAIS.	"	x	"	
KITIHI-GAY-KAKE.	"	x	"	
NO-TE-NA-QUA-HUNG.	"	x	"	30
MAWE-DO-PE-NAIS.	"	x	"	
POW-WA-SANG.	"	x	"	
CANDA-COM-IGO-WI-NINIE.	"	x	"	
PA-PA-SKA-GIN.	"	x	"	
MAY-NO-WAH-TAU-WAYS-KUNG.	"	x	"	
KITCHI-NE-KA-BE-HAN.	"	x	"	
SAH-KATCH-EWAY.	"	x	"	
MUKA-DAY-WAH-SIN.	"	x	"	
ME-KIE-SIES.	"	x	"	
OOS-CON-NA-GEIST.	"	x	"	40
WAH-SHIS-KINCE.	"	x	"	
RAH-KIE-Y-ASH.	"	x	"	
GO-BAY.	"	x	"	
KA-ME-TI-ASH.	"	x	"	
NEE-SHO-TAL.	"	x	"	
KEE-JEE-GO-KAY.	"	x	"	
SHA-SHA-GANCE.	"	x	"	
SHAH-WIN-NA-BI-NAIS.	"	x	"	
AY-ASH-A-WASH.	"	x	"	
PAY-AH-BEE-WASH.	"	x	"	50
RAH-TAY-TAY-PA-O-CUTCH.	"	x	"	

Signed by the Chiefs within named in presence of the following witnesses, the same having been first read and explained by the Honourable James McKay :—

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JAMES MCKAY.

MOLYNEUX ST. JOHN.

ROBERT PITHER.

CHRISTINE V. K. MORRIS.

CHARLES NOLIN.

A. McDONALD.

*Captain commanding escort
to Lieutenant-Governor.*

JAMES F. GRAHAM.

JOSEPH NOLIN.

A. MCLEOD.

GEORGE MCPHERSON, SEN.

SEDLEY BLANCHARD.

W. FRED. BUCHANAN.

FRANK G. BECHER.

ALFRED CODD, M.D.

GORDON S. CORBAULT.

PIERRE LEVIELLER.

NICHOLAS CHATELAINE.

10

We hereby certify that the foregoing is a true copy of the original articles of treaty of which it purports to be a copy.

ALEXANDER MORRIS,

Lieutenant-Governor.

J. A. N. PROVENCHER,

Indian Commissioner.

S. J. DAWSON.

Indian Commissioner.

20

We having had communication of the treaty, certified copy whereof is hereto annexed, but not having been at the Councils held at the north-west angle of the Lake of the Woods, between Her Majesty's Commissioners, and the several Indian Chiefs and others therein named, at which the articles of the said treaty were agreed upon, hereby, for ourselves and the several bands of Indians which we represent, in consideration of the provisions of the said treaty being extended to us and the said bands which we represent, transfer, surrender and relinquish to Her Majesty the Queen, her heirs and successors, to and for the use of her Dominion of Canada, all our right, title and privilege whatsoever, which we, the said Chiefs, and the said bands which we represent, have held, or enjoy, of, in and to the territory described and fully set out in the said articles of treaty and every part thereof, to have and to hold the same unto the use of Her said Majesty the Queen, her heirs and successors for ever.

30

And we hereby agree to accept the several provisions, payments and reserves of the said treaty as therein stated, and solemnly promise and engage to abide by, carry out and fulfil all the stipulations, obligations and conditions therein contained, on the part of the said Chiefs and Indians therein named to be observed and performed, and in all things to conform to the articles of the said treaty, as if we ourselves, and the bands which we represent had been originally contracting parties thereto, and had been present and attached our signatures to the said treaty.

In witness whereof, Her Majesty's said Commissioners and the said Indian Chiefs have hereunto subscribed and set their hands, this thirteenth day of October, in the year of our Lord one thousand eight hundred and seventy-three.

40

For and on behalf of the Commissioners, the Honourable Alexander Morris, Lieutenant-Governor of Manitoba and the North-West Territories, Joseph Albert Norbert Provencher, Esq., and the undersigned :

S. J. DAWSON,

Commissioner.

PAY-BA-MA-CHAS.

His x mark.

RE-BA-QUIN.

" x "

ME-TAS-SO-QUE-NE-SKANK.

" x "

Signed by S. J. Dawson, Esq., one of Her Majesty's said Commissioners, for and on behalf, and with the authority and consent of the Honourable Alexander Morris, Lieutenant-Governor of Manitoba and the North-West Territories, and J. A. N. Provencher, Esq., the remaining two Commissioners, and himself, and by the Chiefs within named on behalf of themselves and the several bands which they represent, the same and the annexed certified copy of articles of treaty having been first read and explained in presence of the following witnesses :

THOS. A. P. TOWERS.	JOHN ATKEN.
A. J. McDONALD.	UNZZAKI.
JAS. LOGANOSH, His x mark.	PINLLSISE.

10

REPORT OF COMMISSIONER DAWSON.

OTTAWA, 26th December, 1873.

SIR,—I beg leave to inform you that, after the treaty had been concluded with certain bands of the Saulteaux tribe of the Ojibbeway Indians, at the north-west angle of the Lake of the Woods, by arrangements made with my associate Commissioners, His Honour the Lieutenant-Governor of Manitoba and the North-West Territories, and Mr. Provencher, I came eastward and convened the leading people of the remaining bands at Shebandowan, where they also, through their Chiefs, accepted and signed the treaty.

I have much satisfaction in saying that these Indians were most friendly in their bearing, and 20 desired me to convey to the Government their cordial expressions of loyalty to their Great Mother, Her Majesty the Queen.

They took some time to deliberate over the provisions of the treaty and asked me occasionally to explain certain passages, more especially those in relation to the reserves.

Before signing it they comprehended perfectly the nature of the obligations into which they were about to enter, that the surrender of their territorial rights would be irrevocable, and that they were to stand forever afterwards in new relations to the white man.

This, the Chiefs themselves stated with great solemnity to their people, in short but impressive speeches, as they each in turn advanced to touch the pen.

One cause of delay at the Lake of the Woods arose from the circumstance of there being a 30 number of aspirants to the office of Chief ; but at Shebandowan I had no such difficulty, for the whole of the bands east of the narrows of Rainy Lake, are under three principal Chiefs, whose authority is unquestioned.

The names of these Chiefs and their respective districts are as follows :—

Pay-ba-ma-chas, Chief of the country intervening between the narrows of Rainy Lake and Sturgeon Falls, and of the region drained by the River Seine and its tributary streams, between the latter place (Sturgeon Falls) and Lac des Mille Laes. This is a very extensive district, and in it are many valuable groves of pine.

Ke-ba-quin, Chief of the region intervening between the present line of the Red River route and the United States boundary line, east of Rainy Lake and west of the height of land. The gold 40 bearing country is in this Chief's district.

Metas-so-que-nes-hauk, Chief of Lac des Mille Laes and the district to the north, lying along the height of land between that lake and the waters of the Nepigon and Lac Seul. This Chief is a very intelligent man, and has already begun to make his people clear land and grow crops.

Each of these three principal Chiefs will have a staff of Lieutenants or subordinate Chiefs, not exceeding three to their respective bands, as provided for in the treaty, but they preferred not to name them at once, saying that the selection was a matter of some delicacy to them, and requiring a little time.

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In regard to the reserves provided for in the treaty, I shall as soon as possible submit a scheme which I think will meet the circumstances, and at the same time draw attention to some experience gained in negotiating with these Indians, which may be of use in similar negotiations in the future.*

The copy of the treaty signed by these Chiefs is enclosed herewith and to it is attached a document signed by the Lieutenant-Governor of Manitoba and the North-West Territories, and
10 Mr. Provencher, empowering me to act for them in their absence, in their capacity of Indian Commissioners.

I have the honour to be, Sir,
Your obedient servant,

S. J. DAWSON.

The Honourable the Minister of the Interior,
Ottawa.

ADHESION OF LAC SEUL INDIANS.

LAC SEUL, 9th June, 1874.

We, the Chiefs and Councillors of Lac Seul, Seul, Trout and Sturgeon Lakes, subscribe and
20 set our marks, that we and our followers will abide by the articles of the treaty made and concluded with the Indians at the north-west angle of the Lake of the Woods, on the third day of October, in the year of our Lord one thousand eight hundred and seventy-three, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners, Honourable Alexander Morris, Lieutenant-Governor of Manitoba and the North-West Territories, Joseph Albert N. Provencher and Simon J. Dawson, of the one part, and the Saulteaux tribes of Ojebewas Indians, inhabitants of the country as defined by the Treaty aforesaid.

In witness whereof, Her Majesty's Indian Agent and the Chiefs and Councillors have hereto set their hands at Lac Seul, on the 9th day of June, 1874.

R. J. N. PITHER,

Indian Agent.

JOHN CROMARTY, His x mark.

Chief.

ACKEMENCE, " x "

MAINEETAINEQUIRE, " x "

NAH-KEE-JECKWAHE, " x "

Councillors.

The whole treaty explained by R. J. N. Pither.

Witnesses:

JAMES MCKENZIE.

LOUIS KITTSON.

NICHOLAS CHATELAN. His x mark.

40

* In 1874 Mr. Dawson and Mr. Pither were appointed to meet the Indians and arrange the position of the reserves, which they did; but subsequently, the Indians claiming that they had not fully understood the exact location or extent of some of the reserves, Colonel Dennis, then Surveyor-General, now Deputy Minister of the Interior, was instructed to visit the Indians comprised in Treaty Number Three, and finally adjust the question of reserves. Colonel Dennis undertook this duty in 1875 and satisfactorily arranged a scheme of reserves for the different bands of the Lake of the Woods. Colonel Dennis submitted a comprehensive report of the results of his mission, and suggested the appointment of sub-agents, the fixing of a specific day for payment to the Indians of their annuities in each agency district, that the necessary funds and the articles for distribution should be provided and in the agents' hands in good time. He advised that the local agents should have some practical knowledge of agriculture, as he believed that the Indians would succeed in raising quantities of stock, though the character of the country prevented their general success as farmers. He suggested further the erection of halls at each agency and the employment of young Indians by the builders entrusted with their construction, "as they are so quick in perception and handy in the use of tools that they would speedily become very expert." The author regrets that he did not obtain communication of this valuable report until this work had advanced too far to admit of its being incorporated with it.

IN THE SUPREME COURT OF CANADA.

IN CHAMBERS.—THE HONOURABLE MR. JUSTICE FOURNIER.

TUESDAY, the fifth day of October, 1886.

BETWEEN

THE QUEEN, ON THE INFORMATION OF THE ATTORNEY-GENERAL FOR THE PROVINCE OF
ONTARIO,

(Respondent) PLAINTIFF,

AND

THE ST. CATHARINES MILLING AND LUMBER COMPANY,

(Appellants) DEFENDANTS.

10

Upon the application of the Appellants, upon hearing read the affidavit of Adam Rutherford Creelman, and upon hearing Counsel for the Appellants and the Respondent, and Counsel aforesaid consenting hereto :—

1. I do order that the time for the filing with the Registrar of this Court of the case herein be and the same is hereby extended to and including the fifth day of October, one thousand eight hundred and eighty-six.

2. And I do further order that subject to the next succeeding paragraph of this Order, the printing be dispensed with of such portions of the material and evidence used or referred to before the Chancellor of Ontario at the trial of this action, and before the Court of Appeal on the Argument of the Appeal herein, as appears already printed in any of the sessional papers of the old Province of Canada, or of the Dominion of Canada, or of any of the Provinces thereof, and that the printing be also dispensed with of treaties, opinions, and other material and documents appearing in any printed book, or in the case submitted to Her Majesty's Privy Council in the matter of the Boundary between the Provinces of Ontario and Manitoba in the Dominion of Canada, and that the same may be treated and referred to in the argument in this Court as part of the case. 20

3. And I do further order that so much of the material and evidence aforesaid as the parties may find it practicable to print in time be printed in the form of a Joint Appendix, and that both parties be at liberty on the argument to refer to the same as part of the case, and that such Joint Appendix may be lodged with the Registrar of this Court not later than the twenty-fifth day of October instant. 30

T. FOURNIER,
J.

OTTAWA, 5th October, 1886.

IN THE SUPREME COURT OF CANADA.

JOINT
APPENDIX.

BETWEEN

THE QUEEN, ON THE INFORMATION OF THE ATTORNEY-GENERAL FOR THE PROVINCE OF
ONTARIO,*(Respondent)* PLAINTIFF,

AND

THE ST. CATHARINES MILLING AND LUMBER COMPANY,

(Appellants) DEFENDANTS.*BEFORE THE HONOURABLE MR. JUSTICE FOURNIER—IN CHAMBERS.*

10 Upon the application of the Appellants, upon hearing the solicitor for the applicants and upon reading the affidavit of Adam Rutherford Creelman, filed, the case filed herein and the order made herein on the 5th of October, 1886, in Chambers, counsel for the Respondent consenting thereto:—

I do order that the parties to this appeal have until the twenty-fifth day of October instant, inclusive, wherein to deposit their respective factums with the Registrar of this Court beyond the time limited in that behalf by the Rules of this Court, and I do further order that, notwithstanding such extension of time for deposit of factums herein, the Registrar shall, at the request of the Appellants' agents, inscribe this appeal on the 11th day of October instant for hearing at the approaching sittings of this Court.

Dated at Chambers this 7th day of October, 1886.

20

T. FOURNIER,
J.

JOINT
APPENDIX.

IN THE SUPREME COURT OF CANADA.

BETWEEN

THE QUEEN, ON THE INFORMATION OF THE ATTORNEY-GENERAL FOR THE PROVINCE OF
ONTARIO,

(*Respondent*) PLAINTIFF,

AND

THE ST. CATHARINES MILLING AND LUMBER COMPANY,

(*Appellants*) DEFENDANTS.

THE HONOURABLE MR. JUSTICE FOURNIER,

In Chambers.

Upon the application of the Appellants, upon hearing the Agent for the Solicitors for the Applicants and upon reading the order made by me herein extending the time for lodging or filing the Joint Appendix to the case herein, and for the deposit of the factums of both parties to this appeal until the 25th day of October, instant, the affidavit of Adam Rutherford Creelman this day filed and the consent of the Attorney-General for Ontario hereto :

I do order that the time for filing said Joint Appendix to the case as well as the time for depositing the factums of both parties to this appeal be and the same is hereby further extended to and inclusive of the 4th day of November next ensuing.

T. FOURNIER,
J.

Dated at Chambers, this 21st day of October, 1886.

69,1888

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF CANADA.

BETWEEN

THE ST. CATHARINES MILLING AND LUMBER COMPANY,
(Defendants) Appellants.

AND

THE QUEEN, ON THE INFORMATION OF THE ATTORNEY-GENERAL FOR THE PROVINCE
OF ONTARIO,
(Plaintiff) Respondent.

JOINT APPENDIX OF DOCUMENTS

SUBMITTED TO THE SUPREME COURT OF CANADA.