

**ABORIGINAL TITLE CLAIM TO
WATER WITHIN THE TRADITIONAL
LANDS OF THE MISSISSAUGAS OF
THE NEW CREDIT**

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for

THE MISSISSAUGAS OF THE NEW CREDIT

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Methodology

The Crown has an obligation to consult with Aboriginal peoples where it contemplates decisions or actions that may adversely impact either asserted or established Aboriginal or treaty rights. The purpose of this project was to examine pre-Confederation Upper Canada land cessions to which the Mississaugas of the Credit (antecedents of the Mississaugas of the New Credit First Nation (MNC)) were signatories in order to determine whether any waters were specifically included or excluded from those cessions, in order to assist the MNC with the documentation of treaty rights with respect to water resources.

At the outset Joan Holmes & Associates (JHA) compiled a list of the following eleven land cessions and agreements dating from 1781 to 1820 for review:

- The Mississauga Cession at Niagara – 1781
- Between the Lakes Purchase (Surrender No. 3) – 1784
- The Toronto Purchase – 1787
- The Gunshot Treaty – 1788
- Renewal of the Between the Lakes Purchase – 1792
- Brant Tract – 1797
- The Toronto Purchase – 1805
- The Head of the Lake Purchase – 1806
- The Huron Tract Provisional Agreement – 1819
- The Ajetance Purchase – 1818
- Surrenders No. 22 and No. 23 – 1820

From those cessions, with the aid of the text of the treaties as well as maps, we compiled a list of key words/waterways to guide us in our research. This list includes Burlington Bay/Beach, the Bay of Quinte, Catfish Creek, Chipewigh River, River Etobicoke, Head of Lake Ontario (Head of the Lake), Humber River, Lamabinicon (small creek), Lake Erie, Lac La Claie, Lake Huron, Niagara, Rice Lake, River Credit, River La Tranche, River St. Claire, River Thames, Rouge River/River Nen, Sixteen Mile Creek, Twelve Mile Creek, Waghquata, and Mississauga/Messissague Point.

JHA developed a detailed research plan and identified wide-ranging historical sources for examination. The focus of our research included searches for pre-surrender discussions between the Crown and the Mississaugas and/or records of council meetings which might shed light on the understanding of both the Crown and the Mississaugas of the land and resources included or excluded in the cessions. For example, according to the terms of Surrender No. 13A, concluded in 1805, the Mississaugas reserved the right to fish in the Twelve Mile Creek, the Sixteen Mile Creek, the Etobicoke River, and retained land on the

River Credit one mile on each side of the river. We also examined survey records, including survey instructions, field notes, and diaries to determine if there were any directions regarding either the inclusion/exclusion of waters, water beds, and/or fishing resources in post-surrender survey instructions. We also attempted to document the importance of water resources to the MNC for social and economic purposes such as transportation, fisheries, harvesting, hunting for water fowl, and gathering of wild rice. In addition we attempted to document actions of both the Crown—by instruction, directives, and/or legislation—and the Mississaugas to protect those resources.

Our extensive research effort culminated in the review of over 150 record sources consisting of collections of primary historical documents as well as published primary and secondary monographs held at the Library and Archives of Canada (LAC), the Archives of Ontario (AO), and the Toronto Reference Library. JHA researchers also searched the on-line holdings of repositories including the Archives of the City of Toronto and the University of Toronto cartographical collection. In addition to the above, numerous Finding Aids at the above stated repositories were consulted which aided in the identification of potentially relevant files in various collections. Finally, several reports, indices and document/map collections completed by Joan Holmes & Associates for the MNC were reviewed.

Chapter One: Background

The shores along the Great Lakes attracted First Nation settlement and the vast expanse of lake waters eased transport and enhanced trade opportunities. At the time of first contact with Europeans, there were approximately 34 First Nations settled around the Great Lakes.¹ First Nations were agreeable to allow other First Nations as well as Europeans to utilize fish resources and travel on the waterways. However, in regard to European land purchases, First Nations “showed no inclination to give up or sell the lakes which were central to their existence.”² Victor Lytwyn, historical geographer, argues that land surrenders negotiated with Great Lakes First Nations during the 18th and 19th centuries did not cover the water nor aquatic resources.³

Early Jesuit records profile the importance of fisheries among the Ojibwa of the Great Lakes.⁴ In 1647-48, the Jesuits reported that Algonquian tribes occupying lands north of the Huron Indians lived off hunting and fishing and exercised seasonal subsistence, staying at one place if the fish were plentiful.⁵ Donald B. Smith, historian, in his article about the Algonquian (Ojibwa) Indians known as the Mississaugas, notes that by moving into southern areas of Ontario during the 17th century they obtained new hunting and fishing grounds:

By coming south the Ojibwa acquired new hunting and fishing grounds, and many obtained a new name. In 1640, the Jesuits first recorded the term Mississauga, or rather “oumisagai,” as the name of an Algonkin band near the Mississagi River on the northwestern shore of Lake Huron. The French, and later the English, for unknown reasons applied this name to all the Ojibwa settling on the north shore of Lake Ontario.⁶

¹ Victor P. Lytwyn, “Waterworld: The Aquatic Territory of the Great Lakes First Nations,” in *Gin Das Winan Documenting Aboriginal History in Ontario*, Occasional Papers No. 2, Eds. Dale Standen and David McNab (Toronto: Champlain Society, 1996), p. 14 [Doc. 155].

² Victor P. Lytwyn, “Waterworld ...,” 1996, p. 15 [Doc. 155].

³ Victor P. Lytwyn, “Waterworld ...,” 1996, p. 15 [Doc. 155].

⁴ Victor P. Lytwyn, “Ojibwa and Ottawa Fisheries around Manitoulin Island: Historical and Geographical Perspectives on Aboriginal and Treaty Fishing Rights,” *Native Studies Review* 6:1 (1990), p. 5 [Doc. 152].

⁵ E. S. Rogers, “Southeastern Ojibwa,” in *Handbook of North American Indians*, Volume 15 – Northeast, Ed. Bruce C. Trigger (Washington: Smithsonian Institution, 1978), p. 760 [Doc. 145].

⁶ Donald B. Smith, “The Dispossession of the Mississauga Indians: a Missing Chapter in the Early History of Upper Canada,” *Ontario History*, Vol. LXXIII, No. 2 (June 1981), p. 69 [Doc. 146].

Charles Le Roy Basqueville de La Potherie, in his late 17th century account entitled *History of the Savage Peoples who are allies of New France*, described the Sauteurs⁷, their territory, and the importance of fisheries to them and the “Missisakis” people:

The Sauteurs, who live beyond the Missisakis, take their name from a fall of water which forms the discharge of Lake Superior into Lake Huron, through extensive rapids of which the ebullitions [*sic*] are extremely violent. These people are very skillful in a fishery which they carry on there, of fish which are white, and as large as salmon. The savages surmount all those terrible cascades, into which they cast a net which resembles a bag a little more than half an ell in width ... It is only they the Missisakis, and the Nepiciriniens who can practice this fishery, although some Frenchmen imitate them.⁸

Jesuit priests working amongst the Upper Algonquins or Anishnabi at the Sainte Marie du Sault mission identified various Indian nations in the area, noting that the 150 Sauteurs united with three other nations numbering more than 550 people.⁹ The priests claimed there were seven other nations dependent on the Sault Ste. Marie mission including the Achiligouiane, the Amicoures, and the Mississague, all engaged in fishing in the rapids and hunting on the islands around Lake Huron.¹⁰ One priest, Father Louys Andre, evidently ministered to the Mississague Indians who lived on the banks of a river, rich in sturgeon, some 30 leagues from the Sault.¹¹

⁷ French term for Ojibwa Indians residing along portions of the north shore of Lakes Huron and Superior.

⁸ Claude Charles Le Roy, Basqueville de La Potherie, “History of the Savage Peoples who are allies of New France,” ca. 1660-1701, in Emma Blair, ed., *The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes: as described by Nicolas Perrot, French commandant in the Northwest; Bacqueville de la Potherie, French Royal Commissioner to Canada; Morrell Marston, American army officer; and Thomas Forsyth, United States Agent at Fort Armstrong*, Vol. I (Lincoln and London: University of Nebraska Press, 1996), pp. 275-277 [Doc. 1].

⁹ Father Dablon, Superior, Sainte Marie de Sault Mission, to Reverend Father François le Mercier, Superior General, Relation of 1669-70, in Reuben Gold Thwaites, ed., *The Jesuit Relations and Allied Documents: Travels and Explorations of the Jesuit Missionaries in New France, 1610-1791*, Volume 54 [Iroquois, Ottawa, Lower Canada, 1669-1671] (Cleveland: The Burrows Brothers Company, Publishers, 1899), p. 133 [Doc. 2].

¹⁰ Father Dablon, Superior, Sainte Marie de Sault Mission, to Reverend Father François le Mercier, Superior General, Relation of 1669-70, in Reuben Gold Thwaites, ed., *The Jesuit Relations and Allied Documents*, Volume 54, p. 131 [Doc. 2].

¹¹ Father Dablon, Superior, Sainte Marie de Sault Mission, to Reverend Father François le Mercier, Superior General, Relation of 1669-70, in Reuben Gold Thwaites, ed., *The Jesuit Relations and Allied Documents*, Volume 54, pp. 131 & 133 [Doc. 2].

Mississaugas Move into Southwestern Ontario

Chief George Copway, tracing the history of his Ojibway nation, stated that the Ojibway, “or those now called Messasaugans [*sic*], settled in Canada West after the years 1634 and 1635. They came over from St. Marie’s River to Lake Huron.”¹² Chief Copway explained that the Mississaugas began to replace the Iroquois in the lands on the northern shore and inland of Lake Ontario during the latter decades of the seventeenth century.¹³ The chief noted that via conquest, the Mississaugas gained control of the easternmost great lakes: “At one time the easternmost lake of the Ojibways was Huron. But they have, by their prowess, gained the waters of Ontario and Erie.”¹⁴

Helen Tanner, anthropologist, remarked that in the late 1600s the Mississaugas moved into what is now eastern and southern Ontario. They established villages along the north shore of Lake Ontario and adjacent waterways, some of which were formerly occupied by elements of the Iroquois Confederacy.¹⁵ These Mississaugas village sites included Ganneous and Quinte on the Bay of Quinte, Quintio at Rice Lake, Ganaraska on Lake Ontario close to present-day Port Hope, and Teiaiaigon and Ganestiquiaigon on Lake Ontario in the present-day Toronto area. There were also a number of Mississaugas villages on the west end of the lake.¹⁶

Reverend Peter Jones or Kahkewaquonaby, a Mississaugas chief and a minister, in his book *History of the Ojibway Indians*, states that the Ojibwa who had moved into Southwestern Ontario had formerly conquered the Huron Indians and occupied their lands along the shores of Lakes Superior and Huron:

The different tribes of the Ojibway nation who now inhabit the shores of Lakes Ontario, Erie, Simcoe, &c., have a tradition amongst them, that they originally came from the great western

¹² George Copway, *The Traditional History and Characteristic Sketches of the Ojibway Nation* (Toronto: Coles Publishing Company, 1972 [reprint of 1850 edition by Charles Gilpin, London]), p. 20 [Doc. 138].

¹³ Percy J. Robinson, *Toronto During the French Regime: A History of the Toronto Region from Brûlé to Simcoe, 1615-1793*, 2nd ed. (Toronto: University of Toronto Press, 1965), pp. 58-59 [Doc. 144]. Note: Percy James Robinson was a teacher, historian, and scholar of Native languages in Ontario. The Robinson fonds, held at the Archives of Ontario, consist of records relating to Robinson’s historical research. Robinson published *Toronto During the French Regime* in 1933. The historical research he conducted for the preparation of that paper, including the archival documents he collected and drafts of various papers, are included in the collection.

¹⁴ George Copway, *The Traditional History and Characteristic Sketches of the Ojibway Nation*, 1850, p. 3 [Doc. 138].

¹⁵ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History* (Norman and London: University of Oklahoma Press, 1987), p. 34 [Doc. 150].

¹⁶ Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History*, 1987, Map 6, p. 33 [Doc. 150].

lakes, Huron and Superior. The former tribes who resided on the shores of these lakes called *Nahdooways** or *Hurons* whom the Ojebways dispossessed of their country by conquest....¹⁷

E. S. Rogers, for his part, believed that the Mississaugas living at the mouth of the Missisagi River on Lake Huron moved southward to the Lake Ontario area sometime between 1690 and 1710, dispersing into two groups settling in the western and eastern parts of the lake.¹⁸

Importance of Lake Ontario waterways

One large group of Mississaugas occupied lands in the Trent River Valley and eastward along Lake Ontario and the St. Lawrence River. A second group established themselves in the area between present-day Toronto and Lake Erie. These Indians considered the Credit River as a favourite area of their ancestors and the Mississaugas who settled on the Credit River and “at the western end of the lake became known collectively as the Credit River Indians.”¹⁹ This latter group of Mississaugas “are the direct ancestors of the present Mississaugas of the New Credit First Nation.”²⁰

The historical documents indicate that as of 1700, Mississaugas Indians occupied settlements along the north shore of Lake Ontario. Two of the Mississaugas villages were located at the end of two trails leading from the Holland River to Lake Ontario. These two villages were respectively Teiaiaigon (Toronto) and Ganestiquiaigon (on the Rouge River) on Lake Ontario:

... there were two trails from the Holland to Lake Ontario; one from the east branch to Ganatsekwyagon at the mouth of the Rouge, and the other from the west branch to Teiaiaigon at the mouth of the Humber.²¹

Percy Robinson, historian, stated that the Iroquois withdrew from the Lake Ontario north shore and by 1700, “the Mississaugas were established in the western edge of the lake; their villages, of which the most important was at

¹⁷ Peter Jones (Kahkewaquonaby), *History of the Ojibwa Indians: with especial reference to their Conversion to Christianity* (London: A. W. Bennett, 1861), p. 32 [Doc. 141].

¹⁸ E. S. Rogers, “Southeastern Ojibwa,” in *Handbook of North American Indians*, Volume 15, 1978, p. 761 [Doc. 145].

¹⁹ Donald B. Smith, *Sacred Feathers: The Reverend Peter Jones (Kahkewaquonaby) and the Mississauga Indians* (Toronto and London: University of Toronto Press, 1987), p. 21 [Doc. 149].

²⁰ Praxis Research Associates, “The History of the Mississaugas of the New Credit First Nation,” undated, p. 6 [Doc. 158].

²¹ Percy J. Robinson, *Toronto During the French Regime ...*, 1965, p. 51 [Doc. 144].

Toronto, extended from the mouth of the Rouge to the mouth of the Niagara. They were thus in control of the approaches to Mackinac and of the immensely valuable trade there.”²²

The newly arrived Mississaugas Indians called the Credit River the ‘Missinnihe’ or ‘trusting creek,’ as traders issued goods in advance for the next year’s furs.²³ The Mississaugas also gathered at the mouth of the Credit River as it was a good source of salmon.²⁴ In 1861, Peter Jones identified several rivers running into Lake Ontario where salmon ran – the Credit, Nappane, Black, Oswego, and Genesee Rivers.²⁵ An 1800 map indicates important salmon spawning waterways that flowed into Lake Ontario.²⁶

The importance of waterways to the Mississaugas people is reflected in early 18th century French records that place the Mississaugas along the shore at the Bay of Quinte, the Humber River, the head of Lake Ontario, and at Matchedash Bay.²⁷ A 1736 census of the French-allied Indians included 120 “itinerant” Mississaugas from around Lake Ontario, 50 Mississaugas from the area of Detroit (Lake St. Clair), a village at the mouth of Lake Huron inhabited by about 60 Mississaugas, and about 15 Mississaugas along Lake Ontario between Quinte and Toronto.²⁸ The census document revealed that on Lake Ontario, “There are no more Iroquois settled ... The Mississagués are dispersed along this lake, some at Kenté, others at the River Toronto, and finally at the head of the Lake, to the number of one hundred and fifty in all, and at Matchedash. The principal tribe is that of the Crane.”²⁹ The Mississaugas Indians were now living all along the Lake Ontario shore from the Bay of Kente (Quinte) west to the head of the lake.

²² Percy J. Robinson, *Toronto During the French Regime...*, 1965, p. 62 [Doc. 144].

²³ Donald B. Smith, “The Dispossession of the Mississauga Indians: a Missing Chapter in the Early History of Upper Canada,” *Ontario History*, Vol. 73, No. 2 (June 1981), p. 154 [Doc. 146].

²⁴ Donald B. Smith, *Sacred Feathers: The Reverend Peter Jones (Kahkewaquonaby) and the Mississauga Indians*, 1987, p. 8 [Doc. 149].

²⁵ Peter Jones (Kahkewaquonaby), *History of the Ojibwa Indians ...*, 1861, p. 49 [Doc. 141].

²⁶ *A map of the province of Upper Canada describing all the new settlements, towns, townships, &c. with the countries adjacent, from Quebec to Lake Huron Compiled, at the Request of His Excellency Major General John G. Simcoe, First Lieutenant Governor [sic] by David William Smyth Esqr Surveyor General London, Published by W. Faden, Geographer to His Majesty and to H.R.H. Prince of Wales. Charing Cross, April 12th 1800* [Doc. 89].
<http://yorkspace.library.yorku.ca/xmlui/handle/10315/20542>

²⁷ M. de La Chauvignerie, French Soldier, 1734, in Percy J. Robinson, *Toronto During the French Regime ...*, 1965, p. 64 [Doc. 144].

²⁸ Census, 1736 [Doc. 4]. LAC MG 1 Series C11A Vol. 66 Reel F-66 fol. 236-256v.

²⁹ “Enumeration of the Indian Tribes Connected with the Government of Canada; the Warriors and Armorial Bearings of Each Nation,” 1736, in E. B. Callaghan, ed., *The Documentary History of the State of New York*, Volume I (Elibron Classics, Adamant Media Corporation, 2003 [reprint of 1849 edition by Weed, Parsons & Co., Albany]), pp. 15-26 [Doc. 3].

On May 20, 1750, French soldiers arrived at the present-day Toronto area to construct the small Fort Toronto (replaced shortly thereafter by the larger Fort Rouille). Percy Robinson notes that a Seneca village (Teiaiaagon) in this area no longer existed as these Indians had been displaced by Mississaugas several decades earlier:

... but there was a village of Mississaugas somewhere near the mouth of the Humber ... It is likely that the Mississauga at Toronto, which is shown on the Johnson map of 1771, was either on Baby Point or on the west bank of the Humber above the Old Mill.³⁰

In 1762, Mississaugas were amongst the assembly of seven to eight hundred Western Indians gathered at Cataraqui (Kingston).³¹ Sir William Johnson wrote to Major General Jeffrey Amherst and discussed the duties of British Indian agents. He observed that:

...it will be a necessary to observe that Cadarachqui (which was always a place of Considerable resort for the Inds.) is now a place of Genl. rendezvous where not only the Neighbouring Mississagas, Chippawaes &ca. who are very numerous, but many other Nats. spend a great part of the year fishing & hunting and also hold several Meetings there, which it will make it necessary to visit that country often (amongst the other parts) for the preserving peace & preventing any ill designs.³²

British views prior to the 1763 Royal Proclamation

Internationally, the 1763 Treaty of Paris raised the question of British governance of the newly acquired territory of Canada. In May of 1763, Lord Egremont, Secretary of State for the Southern Department, asked the Lords of Trade to consider the treaty with a view to commercial profit and security.³³ With regard to the question of security, Egremont considered:

³⁰ Percy J. Robinson, *Toronto During the French Regime ...*, 1965, p. 100 [Doc. 144].

³¹ Daniel Claus, Deputy Superintendent of Indian Affairs, Montreal, to Sir William Johnson, Superintendent of Indian Affairs, June 2, 1762, in James Sullivan, ed., *The Papers of Sir William Johnson*, Volume III (Albany: The University of the State of New York, 1921), pp. 751-754 [Doc. 6].

³² Sir William Johnson, Superintendent of Indian Affairs, to Major General Jeffrey Amherst, September 5, 1762, in James Sullivan, ed., *The Papers of Sir William Johnson*, Volume III, pp. 876-877 [Doc. 8].

³³ Earl of Egremont to the Lords of Trade, May 5, 1763, in Adam Shortt and Arthur G. Doughty, eds., *Documents Relating to the Constitutional History of Canada 1759-1791*, 2nd ed., Part I (Ottawa: J. de L. Taché, King's Printer, 1918), p. 127 [Doc. 10].

... it may become necessary to erect some Forts in the Indian Country, with their Consent, yet his Majesty's Justice & Moderation inclines Him to adopt the more eligible Method of conciliating the Minds of the Indians by the Mildness of His Government, by protecting their Persons & Property & securing to them all the Possessions, Rights & Priviledges they have hitherto enjoyed & are entitled to, most cautiously guarding against any Invasion or Occupation of their Hunting Lands, the Possession of which is to be acquired by fair Purchase only;...³⁴

The Lords of Trade were concerned that the Crown's title to Canada derived from conquest, while their title to the surrounding territory and sovereignty over the Indians had a different basis. The Lords of Trade wrote:

... Your Majesty's Title to it, had taken it's [*sic*] Rise, singly from the Cessions made by France, in the late Treaty, whereas **Your Majesty's Title to the Lakes and circumjacent Territory as well as to the Sovereignty over the Indian Tribes**, particularly of the Six Nations, rests on a more solid and equitable Foundation; and perhaps nothing is more necessary than that just Impressions on this Subject should be carefully preserved in the Minds of Indians, whose Ideas might be blended and confounded, if they should be brought to consider themselves as under the Government of Canada.³⁵ [emphasis added]

The Lords of Trade informed Sir William Johnson that the proposed Royal Proclamation would prohibit settlement on Indian lands, leaving them as hunting grounds and accessible to all British subjects for fur trade purposes. They asked Johnson for his thoughts on a plan for the management of Indian affairs "to the Satisfaction of the Indians, the benefit of free Trade, and the Security and Interests of his Majesty's Dominions."³⁶

³⁴ Earl of Egremont to the Lords of Trade, May 5, 1763, in Adam Shortt and Arthur G. Doughty, eds., *Documents Relating to the Constitutional History of Canada 1759-1791*, p. 128 [Doc. 10].

³⁵ The Lords of Trade to the King, August 5, 1763, in Adam Shortt and Arthur G. Doughty, eds., *Documents Relating to the Constitutional History of Canada 1759-1791*, p. 151 [Doc. 12].

³⁶ Lords of Trade to Sir William Johnson, August 5, 1763, in Clarence Walworth Alvord and Clarence Edwin Carter, eds., *The Critical Period, 1763-1765*, British Series, Volume I, Collections of the Illinois State Historical Library, Volume X (Springfield, Illinois: Illinois State Historical Library, 1915), pp. 17-19 [Doc. 11].

Chapter Two: Land Cessions 1764-1788

The Seneca Treaty at Niagara, 1764

In 1762, General Jeffrey Amherst, Commander in Chief of the British forces in North America, granted 10,000 acres of land at Niagara to a number of British officers. Merchants from Albany protested, believing the grants contravened the terms of an agreement made with the Six Nations in 1726.³⁷ The British Lords of Trade recommended that if grants had been made the settlers should be required to remove themselves.³⁸ The Crown issued an Order in Council on June 19, 1762, ordering General Amherst to put a stop to settlement on the carrying place. In his own defence, Amherst contended that the settlement was for the public good, was not intended for the benefit of private individuals, and was only granted by him on a temporary basis until the King's approval could be obtained.³⁹

Two years later, in April 1764, the spring following the outbreak of Pontiac's war, the Seneca Indians entered into a preliminary agreement of peace, friendship, and alliance with the British Crown; Sir William Johnson, Superintendent of Indian Affairs for the Northern District, represented the Crown. The Seneca ceded a tract of land around Fort Niagara for the sole use of the King and promised not to "obstruct the passage of the carrying place." Treaty lines were to be run in the presence of Sir William Johnson and Seneca representatives to prevent future disputes.⁴⁰

The 1764 agreement also provided for free passage through Seneca territory and use of the harbours and rivers around Lake Ontario with permission to "land stores and erect sheds for their security."⁴¹ The permission sought by the British to use harbours and rivers around Lake Ontario in lands they believed the Seneca had some control over is a strong indication that occupation and control of these waters remained with First Nations people. It should be recalled that

³⁷ "Petition of Merchants of Albany to the Lords of Trade," January 28, 1762, in E. B. O'Callaghan, ed., *Documents Relative to the Colonial History of the State of New York; Procured in Holland, England and France, by John Romeyn Brodhead, Esq., Agent* [hereinafter cited as *DRCHNY*], Vol. VII (Albany: Weed, Parsons and Company, 1856), pp. 488-489 [Doc. 5]. The merchants feared that the grants would give the officers a trade monopoly.

³⁸ "Report of the Lords of Trade on the Memorial of the Albany Merchants," June 3, 1762, in O'Callaghan, ed., *DRCHNY*, Vol. VII, pp. 502-503 [Doc. 7].

³⁹ Sir Jeffrey Amherst to Mr. Sharpe, October 20, 1762, in O'Callaghan, ed., *DRCHNY*, Vol. VII, pp. 508-509 [Doc. 9].

⁴⁰ "Articles of Peace concluded with the Seneca Indians," April 3, 1764, in O'Callaghan, ed., *DRCHNY*, Vol. VII, p. 621 [Doc. 13].

⁴¹ "Articles of Peace concluded with the Seneca Indians," April 3, 1764, in O'Callaghan, ed., *DRCHNY*, Vol. VII, p. 622 [Doc. 13].

while the Seneca and other Six Nations groups may have used and occupied lands along the southern shore of Lake Ontario, the British would have been well aware that the Mississaugas occupied and controlled the land and waters along the northern and western shore of Lake Ontario.

In August 1764, Johnson sent a copy of the treaty to the Lords of Trade and informed them about the completion of the land cession,⁴² reiterating that the Seneca did not “chuse it should become private property, as their hunting grounds are adjacent to it.”⁴³ Johnson reported that it would have been insulting to refuse the personal gift of islands in the straits between Lakes Ontario and Erie which had been added at the time the treaty was finalized. However, as he knew accepting such a gift was prohibited, he offered these islands to the King.⁴⁴

A month after the 1764 conference at Niagara concluded a group of Mississaugas from the north shore of Lake Ontario represented by Chief Poton of Wapaskotiang met with Johnson at Johnson Hall. They stated that they knew peace had been made with the nations who had attended the Niagara Treaty but they themselves were hunting at the time. They had decided to come themselves and hear what had transpired at Niagara and express friendship to the British.⁴⁵ Johnson reported the encounter to Gage, identified “Wapaskotiany” as lying near the north end of Lake Ontario, and stated that these Mississaugas had come on behalf of all the Mississaugas Indians living above the Bay of Quinte:

... to make peace and enter into the same Engagements the rest of their Nation had done which they did on behalf of themselves and all the Neighbouring Inds. living about the Lakes formed by Kenté River, & delivered a large Covt. Chainbelt.⁴⁶

⁴² Colonel Guy Johnson, who participated in the preliminary April cession, later explained that the preliminary agreement had been finalized at the Niagara Treaty Council in July 1764. Colonel Guy Johnson, Superintendent of Indian Affairs, Niagara, to General Frederick Haldimand, Governor of Quebec, August 21, 1780, in E. A. Cruikshank, ed., *Records of Niagara: A Collection of Documents Relating to the First Settlement, 1778-1783*, Niagara Historical Society Pamphlet No. 38 (Niagara-on-the-Lake: Niagara Historical Society, 1927), p. 22 [Doc. 20].

⁴³ Sir William Johnson to the Earl of Halifax, August 30, 1764, in O’Callaghan, ed., *DRCHNY*, Vol. VII, p. 647 [Doc. 14].

⁴⁴ Sir William Johnson to the Earl of Halifax, August 30, 1764, in O’Callaghan, ed., *DRCHNY*, Vol. VII, p. 647 [Doc. 14].

⁴⁵ Sir William Johnson, Indian Superintendent, to General Thomas Gage, September 21, 1764, in Alexander Flick, ed., *The Papers of Sir William Johnson*, Volume IV (Albany: The University of the State of New York, 1925), pp. 543-544 [Doc. 15].

⁴⁶ Sir William Johnson to General Thomas Gage, September 21, 1764, in Flick, ed., *The Papers of Sir William Johnson*, Volume IV, p. 544 [Doc. 15].

Mississaugas residing along Lake Ontario north shore

In May 1770, Ferral Wade and Michael Keiuser, traders, reported on their expedition from “Fonda to Toronto.” Their journal records several encounters with Indians camped along the creeks flowing into Lake Ontario. Their first stop on the way from Niagara to Toronto was at a creek at the “Uttermost End” of Lake Ontario where they found “a Great Number of Hutts ... a Number of Graves Curiously Stockaded....” At this encampment they also found “one horse with his back sore, which we judged Used to carry There [*sic*] packs [words missing] the Carrying Place.”⁴⁷

The next day as they continued toward Toronto, they came upon a number of Indians who assisted in hauling their small boat into a creek. The Indians brought the traders “a Deer, a Bowl of Corn, two Sturgeons ... We gave them in return a Dozen of Biscuit, & three Quarts of rum.” The Indian elders explained that their chief had died a few days earlier, and “that Seven of there [*sic*] village was gone to Niagara to Solicit the Commanding Officer to make or Appoint them a Chief in the place [of the] Disceased [*sic*].” These Mississaugas Indians explained they would assist the two men in finding their way to the Carrying Place at Toronto. Wade and Keiuser encountered another Indian village four miles along the shore and eight miles further they arrived at another “fine Large Creek, where there was a Large Camp [of Ind]ians Incamped [*sic*].”⁴⁸

While the two traders referred to the people at these camps along the Lake Ontario north shore as simply ‘Indians,’ a September 12, 1770, letter identified them as Mississaugas. In this letter Daniel Claus, Deputy Superintendent of Indian Affairs, informed William Johnson, Indian Superintendent, that the trading goods would arrive in Toronto by boat, and then noted the intent of the Mississaugas to have “all the Rum brought among them this fall for fear of its keeping them from Hunting, so that it is difficult how to act in that case; Ferral ought to be upon the spot himself & conduct the Boats to the place he wants them.”⁴⁹

In 1779 Captain Walter Butler travelled by batteau from Niagara on his way to Quebec. The journal he kept provides an interesting description of the north shore of Lake Ontario from this time period. Butler’s entries reveal the presence of Mississaugas Indians from the Head of the Lake to Cataraqui (Kingston):

⁴⁷ “Journal of Wade and Keiuser’s Trading Expedition from Fonda to Toronto,” May 13-June 10, 1770, in Alexander Flick, ed., *The Papers of Sir William Johnson*, Volume VII (Albany: The University of the State of New York, 1931), pp. 723-730 [Doc. 16].

⁴⁸ “Journal of Wade and Keiuser’s Trading Expedition from Fonda to Toronto,” May 13-June 10, 1770, in Flick, ed., *The Papers of Sir William Johnson*, Volume VII, pp. 723-730 [Doc. 16].

⁴⁹ Daniel Claus, Deputy Superintendent of Indian Affairs, to Sir William Johnson, Indian Superintendent, September 12, 1770, in Flick, ed., *The Papers of Sir William Johnson*, Volume VII, p. 899 [Doc. 17].

Niagara 8th March 1779.

Three o'Clock in the Afternoon, Set off for Canada in a Batteau....⁵⁰

12 Mile Pond March 9th. At Six put off, the Wind & Swell high and ahead, but the hands being good Oarsmen Kept the Lake till the 20 Mile Pond, or River,⁵¹ When the Wind increasing & no Harbour nearer than 40 Mile Creek, made for the Creek and was near striking on the Barr, but the force of the Waves on the Stern and working briskly of the Oars, got into the River **An Indian Cabin on the Banck Inhabited by Messessaugoes**⁵² the 20 Mile Creek is a fine Stream, tho' shallow at the Entrance, and Narrow at the Mouth, but very wide a little way up....

10th of March—Put off at Daylight, ... was obliged to put into the River at the head of the Lake,⁵³ Shipped Water twice before we made the River—the wind at East—from the West side the 20 Mile Creek the land lowers, ... in windy weather a Boat may go up this River⁵⁴ Ten or thirteen Miles, from whence there is a Carrying Place of thirteen Miles to the River Trance,⁵⁵ which falls into the Lake of St Clair, After you enter this River about 400 yards, it forms a Lake or Pond⁵⁶ of 4 miles over and six long, between it & the Lake is a narrow neck of Land of 400 yards wide cover'd with a few Trees, & reedy Grass, **on this the Indians hunt in the Fishing Season** ... we saw the Spray or Mist of the Fall of Niagara bearing from this about South East—**A Canoe with Messessaugoes Came to us**, gave me Ducks, in return gave them Powder & Shot & Bread, they being out of Ammunition—....

12th of March—Set off at Seven o'Clock this Morning the wind at N-W too much off Land to sail, row'd till 11 o'Clock, **Put into the**

⁵⁰ All spelling and grammar errors are as in the original document.

⁵¹ Now Jordan Harbour. "Twenty Mile Creek" flows through "Twenty Mile Pond" before emptying into Lake Ontario. Jordan is situated three miles from the mouth.

⁵² Emphasis added for all bold sections.

⁵³ The original channel connecting Burlington Bay with Lake Ontario.

⁵⁴ Now the Desjardins Canal and Linden Creek. The immediate goal of the portage here was the Grand River—leading to Lake Erie—rather than the Thames, which was much more remote.

⁵⁵ La Tranche, now the Thames.

⁵⁶ Burlington Bay. Butler regarded the channel from Lake Ontario and what are now Burlington Bay, the Desjardins Canal, and Linden Creek, as constituting one river.

River called Du Credit 17 miles from our last station, the shore in general good for Boats to Land, the Sand low and a good Beach, except the Points which are Bluff, two Messessaugoes came to me & informed me a number of them lived up this River, gave them Bread, put off at 12, row'd to the Bottom of the Bay.⁵⁷The Bay of Toronto was filled with All sorts of Wild Fowl, **saw on the North side of the Bay several Wigwams & Canoes turned up on the shore, the Land about Toronto Appears very good for Cultivation, from Toronto to River du Credit it's twelve Miles Across the Bays but better than twenty along shore—.....**

13th of March—Got off at Daylight, the wind from the Land, could not sail, rowed till twelve, pass'd the high Lands And a small Bay—put into Pine Wood Creek—here one Duffin a Trader resided formly, since which a Frenchman has wintered here,⁵⁸ he was off a little before we came, two houses a little up the Creek, the one Entire, the other strip'd, **this Creek famous with the Indians for great Quantities of fish**, the distance from this to the other end of the Highlands is about 20 Miles, 15 of which, is few, or no places, where a Boat could be saved in case of a Storm off the Lake....

14th March—Set off at Daylight, rowed till twelve, the swell increasing with the wind ahead at East put into a Creek called by the Indians *Pamitiescotiyank*.⁵⁹ (the fat fire) the distance from our Encampment 15 Miles, **at this Creek and two others nearly of the same name, the Indians in Fishing Season resided, all those three Creeks head near A Lake of about 30 Miles long, distant from this 50 miles, where the Messessaugoes have two Villages and where the Canadians in Winter send Traders....**

15th March—Put off as soon as day appeared and row'd till ten, Passed a long Point⁶⁰ which forms two Deep Bays, one on either side, of Ten miles to the Bottom—**in the Bay to the West falls**

⁵⁷ Humber Bay.

⁵⁸ The stream at Pickering is still known as Duffin's Creek, and Pickering Harbour also bore the name Frenchman's Bay.

⁵⁹ This has been identified as present-day Port Hope. It may be noted that Rice Lake, which evidently is the inland lake of which he subsequently refers to, bore an Indian name represented as *Pemedashcoutayong*.

⁶⁰ Presqu'Isle.

**one of the Creeks before mentioned, Coming from near the
small Lake Inhabited by the Messessaugoes,**

March 16th—Put off our Boat very early, ... The weather
Calm row'd across a very deep Bay⁶¹ of Twenty Miles down,
& about ten directly over, this Bay is much larger, ... many
Persons not acquainted with the Passage have taken down
the Bay⁶² supposing it to be the Entrance of the River and in
coming from the River have imagined the main to the West
to be Islands from its appearance and gone down likewise
down this Bay, **Traders go in two Days to the before
mentioned small Lake Inhabited by the
Messessaugoes**,—Continued rowing till the mouth of
Caderonqua Bay⁶³ the wind coming fair sailed into
Caderonqua Harbour the distance from our Encampment to
Caderoghqua about thirty two miles....⁶⁴

The Mississaugas Cession at Niagara, 1781

In July 1780, Governor Frederick Haldimand issued instructions to Colonel Guy Johnson⁶⁵ to purchase a strip of Mississaugas land opposite Fort Niagara.⁶⁶ Haldimand wanted a strip of land parallel to the Niagara River, leading from Lake Ontario to Lake Erie. Natural boundaries were used to delineate the tract:

... the Tract of Land belonging to the Messessaguas [*sic*],
opposite to the Fort, bounded by the River Niagara, and what is
called the Four Mile Creek, extending from Lake Ontario to Lake
Erie in a Paralel [*sic*] line or near it, with the river, taking the
advantage wherever it can be done, of a natural boundary....⁶⁷

⁶¹ Prince Edward or South Bay.

⁶² That is, by the Bay of Quinté and the River Trent.

⁶³ Cataragui, now Kingston.

⁶⁴ James F. Kenney, ed., "Walter Butler's Journal of an Expedition Along the North Shore of Lake Ontario, 1779," in *The Canadian Historical Review*, Vol. 1, No. 4 (1920), pp. 381-391 [Doc. 18].

⁶⁵ Jonathan G. Rossie, "Johnson, Guy," in *Dictionary of Canadian Biography*, Vol. 4 (Toronto & Montreal: University of Toronto/Université Laval, 2003), accessed at: http://www.biographi.ca/en/bio/johnson_guy_4E.html [Doc. 157]

⁶⁶ Robert J. Surtees, "Land Cessions, 1763-1830," in *Aboriginal Ontario, Historical Perspectives on the First Nations*, Eds. Edward S. Rogers and Donald B. Smith (Toronto: Dundurn Press, 1994), p. 97 [Doc. 154].

⁶⁷ General Frederick Haldimand, Governor of Quebec, to Colonel Guy Johnson, Superintendent of Indian Affairs, Niagara, July 13, 1780, in Cruikshank, ed., *Records of Niagara ...*, p. 21 [Doc. 19].

Responding to Haldimand's inquiries about the previous purchase from the Seneca Indians, Guy Johnson described the boundaries of the 1764 Niagara cession, noting the Seneca stipulation that the land was reserved for the use of the Crown and was not for settlement. Johnson also noted that the intended survey could not be accomplished at the time.⁶⁸

Johnson explained that the Mississaugas had not been party to the 1764 cession, but stated that "the Mississauga have good pretension to it." He advised raising the matter with the Six Nations as he thought it necessary to make some arrangements with their chiefs, "to facilitate the business with the Mississaugas who I apprehend will make few difficulties."⁶⁹ On May 8, 1781, Brigadier General Powell wrote from Niagara to General Haldimand. Powell reported that Colonel Johnson had almost completed the purchase of lands from the Mississaugas.⁷⁰

The following day Johnson reported that he convened the "Chipeweighs" and "Misisages" with interest in the lands to be purchased for the Crown and obtained an executed deed from them. He remarked about the bounds of the tract of land in question:

I have not been able to find any Natural boundary, neither did I think it adviseable [*sic*] to make the Lines parallel to the Courses of the Straits as it would be attended with difficulty and could not be easily comprehended by the Indians, but I took one course to the Chipeweigh [*sic*] River, and another to Lake Erie, by which the contents are more favorable for Government (as I shall show from a Sketch which I intend to transmit by another opportunity) and the Indians are well satisfied, having received about the value of Three hundred Suits of Clothing, which was as little as I could give them....⁷¹

On May 9, 1781, Johnson informed General Haldimand of the land cession at Niagara taken from the Chippewas and Mississaugas. He included a sketch and plan of the ceded tract of land.⁷² The boundaries of the ceded land included the banks of Lake Ontario and Erie as well as the west side along the strait of water

⁶⁸ Colonel Guy Johnson to General Frederick Haldimand, Governor of Quebec, August 21, 1780, in Cruikshank, ed., *Records of Niagara ...*, p. 22 [Doc. 20].

⁶⁹ Colonel Guy Johnson to General Frederick Haldimand, Governor of Quebec, August 21, 1780, in Cruikshank, ed., *Records of Niagara ...*, p. 22 [Doc. 20].

⁷⁰ Brigadier General Powell, Niagara, to General Frederick Haldimand, Governor of Quebec, May 8, 1781 [Doc. 21]. LAC MG 21 Add.MSS. 21761 Series B 101 pp. 63-63v Reel A-681.

⁷¹ Guy Johnson, Niagara, to General Frederick Haldimand, Governor of Quebec, May 9, 1781 [Doc. 22]. LAC MG 21 Add.MSS. 21767 Series B-106 pp. 179-179v Reel A-683.

⁷² "Sketch of a Tract of Land purchased of the Mississaugas for His Majesty by Col. Guy Johnson at Niagara..." May 9, 1781 [Doc. 23]. AO RG 1-1 Vol. 1 Reel MS 7422.

connecting Lakes Erie and Ontario. The deed was signed by three Mississaugas chiefs (Paghquan, Bear totem; Wabacanine, Eagle totem; Menaghquah, Duck totem) and one Chippewa chief (Nanibizure, Swan totem) on behalf of the Mississaugas and Chippewa who had been summoned to perfect the cession of land around Niagara including land ceded in 1764 by the Seneca. The text of the cession indicated that the Crown's directions to Johnson had been fully explained to the assembled Mississaugas and Chippewa.⁷³ There is no evidence that any water ownership rights were transmitted by the deed of surrender.

On May 20, 1781, Brigadier General Powell corresponded to Haldimand and reported that he had visited Fort Erie in the Niagara area which was in a bad state of repair. He explained that while the artificers were repairing the works, "the Engineer took that opportunity to mark out the Boundary Line of the Land lately purchased from the Masasagas [*sic*]."⁷⁴

Additional Mississaugas Lands required

Following the American Revolution, Joseph Brant, chief of the Mohawks, in return for their alliance with the British, proposed that his colony settle in British North America in the Grand River Valley while Governor Haldimand dispatched a surveyor to the Bay of Quinte. In regard to the latter, some of the Mohawks intended to settle at the Bay of Quinte under the leadership of John Deserontyon.⁷⁵

On the last day of March in 1783, Colonel John Butler wrote to Captain Matthews and pointed out that the lands "to the Twelve Mile Creek & Westward as far as Lake Erie" are good and could be purchased from the Indians for 500 to 600 pounds sterling.⁷⁶ On May 26, 1783, Haldimand issued instructions to Major Holland, Surveyor General, to survey the country from the last concessions to Cataraqui and then to Niagara on the north side of Lake Ontario for the purpose of establishing settlements.⁷⁷

⁷³ Surrender No. 381 [Niagara Purchase], May 9, 1781, in Canada, *Indian Treaties and Surrenders. From No. 281 to No. 483*, Vol. III (Saskatoon: Fifth House Publishers, 1993 [reprint of 1912 edition by C. H. Parmelee, King's Printer, Ottawa]), pp. 196-197 [Doc. 24].

⁷⁴ Brigadier General Powell, Niagara, to General Frederick Haldimand, Governor of Quebec, May 20, 1781 [Doc. 25]. LAC MG 21 Add.MSS. 21761 Series B 101 pp. 77-77v Reel A-681.

⁷⁵ Arthur J. Ray, *I Have Lived Here Since the World Began: An Illustrated History of Canada's Native People* (Toronto: Lester Publishing and Key Porter Books, 1996), pp. 131-133 [Doc. 156].

⁷⁶ Colonel John Butler to Captain Robert Mathews, March 31, 1783, in Cruikshank, *Records of Niagara ...*, p. 49 [Doc. 26].

⁷⁷ Frederick Haldimand, Governor of Quebec, to Major Holland, Surveyor General, May 26, 1783 [Doc. 27]. LAC MG 21 Add.MSS. 21784 Series B 124 p. 31 Reel A-688.

On August 11, 1783, John Johnson wrote to Haldimand transmitting the proceedings [not found] of meetings held with the Six Nations at Niagara and with the Mississaugas at Carleton Island. Johnson stated that the Mississaugas exhibited uneasiness about the prospect of members of the Six Nations coming to settle in the area of Cataraqui. The Mississaugas complained that the more numerous Six Nations Indians would overrun their hunting territories and oblige them to seek new and more distant ground. Johnson suggested that the fears could be reduced by the purchase of some of the Mississaugas land on the north shore of the lake. Johnson stated that “a purchase of the lands including the islands from the Bay of Kenty downwards and including the Crown lands would be sufficient to answer every purpose both for Loyalists and Indians.”⁷⁸

Twenty days later Haldimand informed Johnson that a surveyor would be sent to identify and mark out lands for intended settlements at Cataraqui. He stated that proper steps had to be taken to satisfy the Mississaugas in regard to the “Tract of country intended to be settled by the Mohawks & any of the Six Nations who shall wish to accompany them.”⁷⁹

Crawford Purchase, 1783

On September 15, 1783, General Haldimand corresponded with Major John Ross and one of the issues he raised related to settlement of Mohawks “and some other Tribes” near the Bay of Kinte [*sic* – Quinte]. Haldimand mentioned uneasiness among the Mississaugas who claimed the north shore of Lake Ontario:

The Only difficulty seems to be, giving uneasiness to the Missisagues [*sic*], as they claim The Northern Part of Lake Ontario, to avoid which, I have directed Sir J. Johnson to treat with them on this Matter and if necessary to make such purchases as the King's Service may require, which he tells me will be easily accomplished.⁸⁰

⁷⁸ Brigadier General John Johnson to General Haldimand, Governor of Quebec, August 11, 1783 [Doc. 28]. LAC MG 21 Add.MSS. 21775 Series B 115 pp. 152-153 Reel A-685.

⁷⁹ Frederick Haldimand, Governor of Quebec, to Brigadier General Sir John Johnson, September 1, 1783 [Doc. 29]. LAC MG 21 Add.MSS. 21775 Series B 115 pp. 158-158v Reel A-685.

⁸⁰ General Frederick Haldimand, Governor of Quebec, to Major John Ross, September 15, 1783, in Ernest A. Cruikshank and Gavin K. Watt, *The History and Master Roll of The King's Royal Regiment of New York*, Revised edition (Milton, ON: Global Heritage Press, 2006), pp. 108-109 [Doc. 30].

On October 9, 1783, Captain William Crawford corresponded with Sir John Johnson and informed him that he had followed out his instructions to purchase land from the Mississaugas:

According to your directions I have purchased from the Missisaguas [*sic*] all the lands from Toniata or Onagara River to a river in the Bay of Quinte within eight leagues of the bottom of the said Bay including all the Islands, extending from the lake back as far as a man can travel in one day, the Chiefs claiming the land at the bottom of the Bay could not be got together at the present. I believe their land can be got nearly on the same terms, though this when I see them.

The consideration demanded by the Chiefs for the lands granted is that all the families belonging to them shall be clothed and that those that have not fuses shall receive new ones, some powder and ball for their winter hunting, as much coarse red cloth as will make about a dozen coats and as many laced hats.⁸¹

Crawford noted that he purchased the land below (east) of the fort at Cataraqui from an Indian called Menas, who ordinarily lived at “Canosadauga.”⁸² He remarked that the Mississaugas were pleased with the idea that whites would settle among them. The following week Major John Ross corresponded with Captain Matthews and mentioned that the land had been purchased from the Mississaugas without any suggestion that the Six Nations would be settling along the lake, “least the Missisagoes [*sic*] be unwilling to treat.”⁸³

On November 3 Ross wrote once more to Matthews and briefly discussed the purchase of lands in the area of Cataraqui. He explained that the land purchase negotiations were greatly assisted by Mynas, an old Mississauga chief normally resident in Canada but who happened to be at Cataraqui. Ross reported that the lands purchased from the Mississaugas extended about 45 miles up the lake and that he had sent some officers from the garrison to explore the country:

The party which went to meet Lieut. French returned some days after his arrival here. They travelled about sixty miles, nearly a northern course. The lands in general are of a better quality than those reported by Lieut. French on the banks of the River

⁸¹ Captain William Redford Crawford to Sir John Johnson, October 9, 1783, in Cruikshank and Watt, *The History and Master Roll of The King's Royal Regiment of New York*, p. 111 [Doc. 31].

⁸² Kanesatake.

⁸³ Major John Ross to Captain Robert Matthews, October 15, 1783, in Cruikshank and Watt, *The History and Master Roll of The King's Royal Regiment of New York*, p. 110 [Doc. 32].

Ganenencui, which he has described as very barren. They did not touch upon that river—the Indians would go no further.⁸⁴

Between the Lakes Purchase, 1784 and Treaty No. 3, December 1792

In March 1784, Sir John Johnson informed Governor Haldimand that Mohawks and others under Captain Joseph Brant and David Hill wished to settle on the Grand River, about 20 miles from the head of Lake Ontario.⁸⁵ These people had supported the British in the Revolutionary War and had been displaced by the establishment of the American boundary.

Four days later Haldimand expressed support for the settlement of Six Nations Indians on the Grand River. He observed that Joseph Brant had reported “that Col. Butter [*sic* – Butler] is persuaded he can purchase the Right of the Lands from the Mississagues for a very trifling consideration.”⁸⁶ Haldimand authorized the issuance of instructions to Colonel Butler to proceed upon the matter.⁸⁷ In a March 23, 1783, extract of a letter, Haldimand instructed Johnson to direct Colonel Butler to purchase a tract of land located between Lakes Ontario, Erie, and Huron.⁸⁸

Sir John Johnson issued instructions to Lieutenant Colonel Butler, Deputy Agent of Indian Affairs, to purchase Mississaugas land lying between Lakes Ontario, Huron, and Erie for the use of the Six Nations and Loyalists. Consequently, Butler sent a message and a belt calling the parties to council and Chief Pokquan collected his people to travel to the meeting. Representatives of the Mississaugas, Six Nations, Delaware, and British met at Niagara on May 22, 1784.⁸⁹

At the council, Chief Pokquan stated that the Mississaugas were not the owners of all the land lying between Lakes Ontario, Erie, and Huron, but that they would

⁸⁴ Major John Ross to Captain Robert Matthews, November 3, 1783, in Willis Chipman, *The Life and Times of Major Samuel Holland, Surveyor General, 1764-1801*, Reprinted from *Papers and Records*, Vol. XXI (Toronto: Ontario Historical Society, 1924), p. 42 [Doc. 33].

⁸⁵ Sir John Johnson, Superintendent General and Inspector General of Indian Affairs, to General Frederick Haldimand, Governor of Quebec, March 11, 1784 [Doc. 34]. LAC MG 21 Add.MSS. 21775 pp. 234-236 Reel H-1450.

⁸⁶ Frederick Haldimand, Governor of Quebec, to Sir John Johnson, March 15, 1784 [Doc. 35]. LAC MG 21 Add.MSS. 21723 Series B 63 No. 1 pp. 39-40 Reel A-664.

⁸⁷ Frederick Haldimand, Governor of Quebec, to Sir John Johnson, March 15, 1784 [Doc. 35]. LAC MG 21 Add.MSS. 21723 Series B 63 No. 1 pp. 39-40 Reel A-664.

⁸⁸ Frederick Haldimand, Governor of Quebec, to Sir John Johnson, March 23, 1784 [Doc. 36]. AO RG 1-1 Vol. 2 Reel MS 7422 Doc. No. 106.

⁸⁹ “A Meeting held at Niagara 22nd May 1784 with the Mississaga Indians accompanied by the Chiefs and Warriors of the Six Nations Delawares &c,” May 22, 1784 [Doc. 37]. LAC MG 11 CO 42 Vol. 46 pp. 224-225 Reel B-37.

be willing to transfer their “right of soil & property to the King” for a tract of land from the head of Lake Ontario to the Thames River, south to Lake Erie. The chief described the tract as being “from the Head of the Lake Ontario or the Creek Waghquata, to the River La Tranche, then down that River until a South course will strike the Mouth of Catfish Creek on Lake Erie.”⁹⁰

A copy of the original deed indicates that the Mississaugas ceded a tract of land between Lake Erie and Lake Ontario that approximated the area offered by Pokquan. This tract included a 550,000-acre section along the Grand River that was later reserved for the Six Nations. The deed described the tract of land, employing familiar landmarks such as rivers and creeks.⁹¹

Crown officials paid compensation of £1,180.7.4 at the time of the council meeting.⁹² Ten Mississaugas signed the deed, including Wabakanyne and Pokquan. Witnesses to the deed included military officers, the Acting Secretary of the Six Nations, and Mohawk leaders Joseph Brant and David Hill.⁹³

Renewal by Surrender, 1792

As there were doubts about the limits of the tract ceded on May 22, 1784, John Graves Simcoe, Lieutenant Governor of Upper Canada, asked Surveyor General Samuel Holland to verify one of the boundaries. Simcoe referred specifically to the “North West Course.”⁹⁴ The ensuing survey showed that the limit, defined in the deed’s description of the ceded tract as an imaginary line extending northwesterly from Lake Waghquata (Washquarter) to River La Tranche (Thames River), was impossible because it could not join the two reference points referred to in the deed, and thus a more accurate description was

⁹⁰ “A Meeting held at Niagara 22nd May 1784 with the Mississaga Indians accompanied by the Chiefs and Warriors of the Six Nations Delawares &c,” May 22, 1784 [Doc. 37]. LAC MG 11 CO 42 Vol. 46 pp. 224-225 Reel B-37.

⁹¹ Robert J. Surtees, *Indian Land Cessions in Ontario, 1763-1862: The Evolution of a System*, Ph.D. Thesis, Carleton University, 1982, p. 68 [Doc. 147].

⁹² Indenture between Wabakanyne, Nannebosure, Pokquan, Nanaghkagwiskam (Nanaghkaweskam), Peapamaw, Tabendan (Tanendan), Sawameneck (Sawarnenik), Peasanish, Wapamonisschisqua, Wapeanoghqua (Wapeanghqua), Sachems, War Chiefs & Principal Women of the Mississaga, and King George III, made at Niagara, May 22, 1784, in Alexander Fraser, ed., *Third Report of the Bureau of Archives for the Province of Ontario, 1905* (Toronto: L. K. Cameron, 1906), pp. 486-489 [Doc. 38].

⁹³ Indenture between Wabakanyne ... and King George III, made at Niagara, May 22, 1784, in Fraser, ed., *Third Report ...*, pp. 486-489 [Doc. 38].

⁹⁴ J. G. Simcoe, Lieutenant Governor, to Samuel Holland, Surveyor General, March 17, 1792, in E. A. Cruikshank, ed., *The Correspondence of Lieut. Governor John Graves Simcoe, With Allied Documents Relating to His Administration of the Government of Upper Canada*, Vol. I (Toronto: Ontario Historical Society, 1923), pp. 126-127 [Doc. 52].

required.⁹⁵ Consequently, Simcoe met with five Mississaugas chiefs on December 7, 1792, and drew up a new document at Navy Hall in Lincoln County (Niagara).⁹⁶ The 1792 indenture, which became known as Surrender No. 3, summarized the 1784 transaction, including the description of the lands the Mississaugas had granted.⁹⁷

Significantly, British officials took the opportunity to seek permission for free use of Mississaugas waters for transport and navigation purposes throughout the lands used and occupied by the First Nation. Within Surrender No. 3, the Mississaugas granted the Crown separate permission to navigate the lakes and rivers within the “Messissague Country”:⁹⁸

....
And whereas at a conference held by John Collins and William R. Crawford, Esqrs, with the principal Chiefs of the Messissague Nation, Mr. John Russeau, Interpreter, it was unanimously agreed that the King should have a right to make roads thro’ the Messissague Country, that the navigation of the said rivers and lakes should be open and free for His vessels and those of His subjects, that the King’s subjects should carry on a free trade unmolested, in and thro’ the country: Now this Indenture doth hereby ratify and confirm the said conference and agreement so had between the parties aforesaid, giving and granting to His said Majesty a power and right to make roads thro’ the said Messissague Country together with the navigation of the said rivers and lakes for His vessels and those of His subjects trading thereon free and unmolested.⁹⁹

⁹⁵ Colonel John Graves Simcoe, Lieutenant Governor of Upper Canada, Quebec, to Evan Nepean, Undersecretary of State for the Home Department, April 28, 1792, in Cruikshank, ed., *Simcoe Correspondence*, Vol. I, pp. 145-147 [Doc. 53].

⁹⁶ Surrender No. 3 listed the 1784 signatories as “Wabakanyne, Nannibosure, Pokquawr [Pokquan], Nanaughkawestrawr [Nanaghkagwiskam], Peapamaw, Tabendau [Tabendan], Sawainchik [Sawameneck], Peasanish, Wapamanischigun [Wapamonisschisqua], Wapeanojhqua [Wapeanoghqua], Sachems and War Chiefs and Principal Women of the Messissague Indian Nation.” Surrender No. 3, December 7, 1792, in Canada, *Indian Treaties and Surrenders*, Vol. I, Treaties 1-138 (Saskatoon: Fifth House Publishers, 1992 [reprint of 1891 edition by Brown Chamberlin, Ottawa]), pp. 5-7 [Doc. 55].

⁹⁷ Surrender No. 3, December 7, 1792, in Canada, *Indian Treaties and Surrenders*, Vol. I, pp. 5-7 [Doc. 55].

⁹⁸ Surrender No. 3, December 7, 1792, in Canada, *Indian Treaties and Surrenders*, Vol. I, pp. 5-7 [Doc. 55].

⁹⁹ Surrender No. 3, December 7, 1792, in Canada, *Indian Treaties and Surrenders*, Vol. I, pp. 5-7 [Doc. 55].

1785

On May 2, 1785, Benjamin Frobisher, North-West Company, wrote to Lieutenant Governor Henry Hamilton reporting on alternatives to the Ottawa River transportation route to the interior. Frobisher noted the existence of a water “road” between the Bay of Quinte and Lake Simcoe but argued it had too many portages. Frobisher recommended establishing communications between Lake Ontario and Lake Huron via the “Toronto Carrying Place” route from the mouth of the Humber River to Lake Simcoe, then overland to Lake Huron. He identified the presence of Mississaugas and Chippewa settlements along the latter route, but expected little difficulty to purchase the necessary lands.¹⁰⁰

A 1785 census of Indians reported that the 500 “Fond du Lac Huron Indians are Missisageys, Chipeways & Matchidas Nations” and that “These nations claim a right to hunt the continent between the Lakes Huron and Ontario.”¹⁰¹ It seemed to be clearly understood that in the 18th century the Mississaugas Indians (also described as Chipeways and/or “Matchidas” Indians) were known to reside on and hunt on the lands between Lakes Huron and Ontario, as well as the north shore of Lake Ontario. The Mississaugas also controlled the lands along the two important water transportation routes (one originating on the Rouge River and the other on the Humber River) between the Toronto area and Lake Huron.

On August 9, 1785, John Collins, Deputy Surveyor General, signed a report that served as a record of a conference between Collins and William R. Crawford with the principal chiefs of the Mississaugas Nation. Collins asserted that, among other understandings, the Mississaugas agreed to allow the King’s subjects to have open and free navigation of the rivers and lakes within their lands:

... that the King shall have a right to make roads through the Mississauga country, **that the navigation of the rivers and lakes shall be open and free for his vessels and those of his subjects**, that the King’s subjects shall carry on a free trade unmolested, in and though the country, that the King shall erect forts, redoubts, batteries, & storehouses, etc. in all such places as shall be judged proper for that purpose; respecting payment for the above right, the chiefs observed they were poor and naked, they wanted clothing and left it to their Good Father to be a judge of the quantity.¹⁰²

¹⁰⁰ Benjamin Frobisher, North-West Company, to Henry Hamilton, Lieutenant Governor, May 2, 1785, in Percy Robinson, *Toronto During the French Regime...*, pp. 161-163 [Doc. 40].

¹⁰¹ Census of Indians, 1785 [Doc. 39]. LAC MG 19 F1 Vol. 4 pp. 66-68 Reel C-1478.

¹⁰² Record of a Conference signed by John Collins, Deputy Surveyor General, August 9, 1785 [Doc. 41]. AO F 47-1-1 File F 47-1-1-1 Reel MS 1797.

1787 Toronto Purchase

In July 1787, Lord Dorchester instructed Deputy Surveyor John Collins to assist Sir John Johnson, Superintendent General of Indian Affairs, in the purchase of land along the north shore of Lake Ontario between Quinte and Toronto, in order to facilitate the settlement of the lands between existing settlements at Cataraqui and Niagara. Dorchester informed Collins that he had issued instructions to Johnson:

... to take such steps with the Indians concerned, as may be necessary to establish a free and amicable right for Government to the interjacent lands, and not yet purchased, on the north of Lake Ontario, for the purpose, as well as such parts of the country, as may be necessary on both sides of the proposed communication from Toronto to Lake Huron.¹⁰³

In September 1787, the Mississaugas Indians, including Chief Wabakanyne, met with Sir John Johnson, Superintendent General of Indian Affairs, to negotiate the surrender of a tract of land known as the Toronto Purchase. The indenture did not identify the surrendered lands.¹⁰⁴

1788-1790 Events related to the Gunshot Treaty

On July 7, 1788, Deputy Surveyor John Collins instructed Surveyor Alexander Aitken to commence a survey of the lands purchased at Toronto.¹⁰⁵ On August 1 Aitken arrived at Toronto and a few days later met with the Mississaugas and in the company of an interpreter attempted to reach agreement on the eastern and western bounds of the lands purchased in 1787:

I then desired Mr. Lines, the Interpreter, to signify to the Indian Chief then on the spot my intention of beginning to survey the land purchased from them last year by Sir John Johnson and pointed out to him where I was to begin. I requested of him to go with me to the spot along with Mr. Lines, which he did, but instead of going to the lower end of the Beach which forms the Harbour he brought me to the river called on the Plan

¹⁰³ Lord Dorchester to John Collins, July 19, 1787 [Doc. 42]. AO RG 1-1 Vol. 2 Reel MS 7422 Doc. No. 100.

¹⁰⁴ Surrender No. 13 [Toronto Purchase], September 23, 1787-June 18, 1806, in Canada, *Indian Treaties and Surrenders*, Vol. I, Treaties 1-138 (Saskatoon: Fifth House Publishers, 1992 [reprint of 1891 edition by Brown Chamberlin, Queen's Printer, Ottawa]), pp. 32-36 [Doc. 43].

¹⁰⁵ Alexander Aitken, Deputy Provincial Surveyor, to John Collins, Deputy Surveyor General, September 15, 1788, in Percy J. Robinson, *Toronto During the French Regime...*, p. 166 [Doc. 46]. Note: Survey instructions have never been located.

Nechengquakekonk [Don River] which is upwards of three miles nearer the Old Fort than the place you mention in your instructions: he insisted that they had sold the land no further, so that to prevent disputes I had to put it off for some days longer until a few more of the Chiefs came in, when Mr. Lines settled with them that I was to begin my Survey at the west end of the High Lands which I did on the 11th of August having lost a week of the finest weather we had during my stay at Toronto.¹⁰⁶

While Surveyor Alexander Aitken commenced a survey of the 1787 Toronto Purchase in the late summer of 1788, the Mississaugas in the Toronto area held meetings with Sir John Johnson and Colonel Butler. These two Crown officials paid the Mississaugas in goods for the lands ceded in 1787.¹⁰⁷ It seems that Johnson and Butler then proposed a second land purchase (the 1788 Gunshot Treaty) to the gathered Mississaugas.

No purchase deed for the 1788 Gunshot Treaty lands has been located. Historical documentation of any kind about the 1788 Treaty is extremely sparse. In two letter extracts dated August 26, 1788, Lieut. Colonel John Butler claims to have purchased the Gunshot Treaty lands, which he described as running along the north shore of Lake Ontario from the eastern boundary of the 1787 Toronto Purchase to the Bay of Quinte and as far back as "Lake La Clay and the Rice lake."¹⁰⁸

A year later, in September 1789, Sir John Johnson issued instructions to Patrick Langan, who was apparently on his way to the Bay of Quinte to distribute Indian Stores as payment for a cession of land. Although the purpose of this 1789 payment is somewhat obscure, the instructions indicate that the meeting and payment of Indian Stores seemed to have been for the lands covered by the 1788 Gunshot Treaty, as well as to satisfy any of the Indians who did not receive payment for the 1787 Toronto Purchase cession:

In order to fully accomplish his Excellency Lord Dorchester's liberal intentions in rewarding & compensating the Mississages for the additional cession of Lands they last year made from their

¹⁰⁶ Alexander Aitken, Deputy Provincial Surveyor, to John Collins, Deputy Surveyor General, September 15, 1788, in Percy Robinson, *Toronto During the French Regime...*, pp. 166-168 [Doc. 46].

¹⁰⁷ "The Chevalier De Rocheblave and the Toronto Purchase," circa 1922 [Doc. 143]. AO F1080 MU 2407 Percy Robinson Papers File IIIA pp. 16-17.

¹⁰⁸ Lieutenant Colonel John Butler to Unknown, August 26, 1788 [Doc. 45]. AO RG 1-1 Vol. 2 Reel MS 7422; and John Butler, Niagara, to Sir John Johnson, August 26, 1788 [Doc. 44]. LAC RG 8 Series C Vol. 250 Pt. 1 p. 290 Reel C-2849.

former grant at Toronto, to the Lands they before ceded to the King up to the head of the Bay de Quinte....

... you should proceed to Kingston with all convenient dispatch, and make application to the Officer Commanding Stores for the presents sent up for that purpose and everything requisite to transport them to the place of Rendezvous at the head of the Bay of Quinte with a sufficient quantity of Provisions to answer the necessities of the Indians....

You will endeavour to make a similar distribution to that made on the former occasion alluded to, as far as the nature of the goods you will have to distribute will admit of first satisfying those Indians who did not receive their proportions last year from Mr. Lines....¹⁰⁹

On October 18, 1789, Patrick Langan met with Mississaugas gathered at the head of the Bay of Quinte for the purpose of completing payment to the Indians for land ceded “on the North side of Lake Ontario.” At the gathering, Langan made a speech to the Mississaugas as to why they were meeting. He declared that he had come to reward the Indians for lands ceded in 1788. Langan described the land as lying “between the boundary of the old purchase [1783/1784 Crawford Purchase] and the Creek above Toronto.” Langan also stated that the gathered Mississaugas had now surrendered almost all of the land on the north shore of Lake Ontario:

Brethren,

It is true you have given your Father a great deal of Lands upon Lake Ontario: indeed almost the whole of the North side of that great Water, **and as the small corner from the head of the Lake to the River Credit can be of little use to you; your Father would take it kindly that you add that spot to the former purchase, still however retaining to yourselves that River & the Land between it and the boundary of the old purchase on this side, and the same distance above the River in order to keep your Road to the Lake open and clear.**¹¹⁰ [emphasis added]

¹⁰⁹ Sir John Johnson to Patrick Langan, Acting Secretary, Indian Affairs, September 20, 1789 [Doc. 47]. LAC RG 1 Series E3 Vol. 37A File I 1 pp. 35-36 Reel C-1194.

¹¹⁰ “Speech delivered by Patrick Langan Acting Secretary for Indian Affairs, to the Messesagey Indians Collected at the head of the Bay de Quinte,” October 18, 1789 [Doc. 48]. LAC RG 1 Series E3 Vol. 37A File I 1 pp. 37-40 Reel C-1194.

Chapter Three: Land Cessions 1790-1801

Mississaugas and Water Issues 1790-1796

In conjunction with British colonial recognition of Mississaugas exclusive use of the River Credit, and insistence that Mississaugas access to Lake Ontario and/or Lake Simcoe remain open and clear, colonial officials provided a great deal of finished products for use in Mississaugas fisheries.

On May 25, 1790, John Johnson, Superintendent General of Indian Affairs, signed off on a “Return of Indian Stores proposed to be distributed amongst the Mississaugay Nation of Indians, inhabiting the Head of Lake Ontario, Toronto, & River La Tranche to be forwarded to Niagara for that purpose.” Included among the list of Indian Stores were 109 fish spears, 600 fish hooks (sorted), and 120 fishing lines.¹¹¹

In October of 1790, J. Butler signed off on a document outlining a complaint received from the chiefs of the “Messisague” Indians about “white people” fishing in their creeks:

Upon a Complaint made to me by the Chiefs of the Messisague Indians requesting me to make known their Intention in Writing respecting White people Fishing in their Creeks, I do therefore give this Warning to all Concerned that they will not allow any person of that description to fish in the Creek called the River of Credit which they reserve entirely to themselves, any Other Creeks they have no objection to Peoples fishing in.¹¹²

Evidently the Mississaugas understood that the fisheries on the River Credit were exclusively reserved to them. At the same time they did not object to non-Mississaugas fishing in other creeks within their traditional territory.

An extract dated April 28, 1792, records correspondence between Lieutenant Governor Simcoe and the Lords of Trade. Simcoe made the following statement about the rights of the Indians to their territory, hunting grounds, and streams and lakes:

The Indians can in no way be deprived of their rights to their Territory and Hunting Grounds, save and except as formerly

¹¹¹ John Johnson, Superintendent General for Indian Affairs, “Return of Indian Stores proposed to be distributed amongst the Mississaugay Nation of Indians, inhabiting the Head of Lake Ontario, Toronto, & River La Tranche to be forwarded to Niagara for that purpose,” May 25, 1790 [Doc. 49]. AO F47-1-1 File 47-1-1-5 Reel MS1797.

¹¹² J. Butler, Deputy Agent, October 16, 1790 [Doc. 50]. AO F47 File F 47-1-1-6 Reel MS 1797.

stated, Any portion of Lands ceded by them held as a Reservation must and shall be fully protected, as well as rights reserved on certain Streams and Lakes for fishing and hunting privileges or purposes.¹¹³

In March 1792, an unsigned draft of a letter, likely written by Lieutenant Governor Simcoe to Lord Dorchester, made clear that British officials were intent on purchasing from the Indians a tract of land situated on the carrying place from Sturgeon Bay into another part of Lake Huron. The attached colour-coded map delineated the Great Lakes region; the intended land purchase would extend the communication route from Mississaugas of the Credit lands extending from Toronto to Lake Simcoe, and then Chippewa lands from Lake Simcoe to Lake Huron.¹¹⁴

In the winter of 1793, the Lieutenant Governor of Upper Canada received a memorial from “Different family of the Massasagoes Indians etc.” The different Massasagoes [*sic*] families cultivated the land at 12 Mile Creek, 16 Mile Creek, and the River Credit, and claimed to be imposed upon by some of the non-Indian inhabitants. The Mississaugas families declared that over the preceding three autumns the non-Indians “have destroyed our houses when we was not there besides fishing and hunting when we are not there.” The families also referred to injuries they had received from “white people ... for when white peoples sees [*sic*] anything that they like they never quit us until they have it.”¹¹⁵

A lack of documentation related to some late 18th century land transactions inspired Crown officials to begin searching for available documents relating to various land purchases, including purchases taken from the Mississaugas. On November 5, 1793, Lieutenant Governor Simcoe sent a request to Joseph Chew, Superintendent of Indian Affairs in Montreal, asking him to assist Alexander Aitken, Deputy Provincial Surveyor, with information relative to some Indian land purchases between Lakes Ontario and Huron.¹¹⁶

In mid-December of 1793, Alexander Aitken, surveyor, travelled to Montreal to meet with Captain Chew in regard to “lands heretofore purchased from the

¹¹³ J. G. Simcoe, Lieutenant Governor of Upper Canada, to the Lords of Trade, April 28, 1792 [Doc. 54]. AO F 4337-2-0-11 Reel MS 2605.

¹¹⁴ J. G. Simcoe, Lieutenant Governor, to [Lord Dorchester?], March 10, 1792 [Doc. 51]. LAC MG 11 Vol. 316 pp. 60-62 Reel B-280.

¹¹⁵ “Different family of the Massesagoe Indians &c” to Sir John Graves Simcoe, Lieutenant Governor of Upper Canada, 1793 [Doc. 56]. AO F 47 File F 47-1-2-8 Reel MS 1798.

¹¹⁶ E.B. Littlehales, York, to J. Chew, Superintendent of Indian Affairs, Montreal, November 5, 1793 [Doc. 57]. LAC RG10 Vol. 8 p. 8563 Reel C-10999.

Mississaugue [*sic*] Indians”.¹¹⁷ On December 19 Aitken called on Chew and showed him his instructions from Lord Simcoe. Aitken noted that “Mr. Chew promised to procure me all the information he could.” Three days later Aitken received a brief description of some of the boundaries of purchased Indian lands, but not sufficient information for certainty about the purchases.¹¹⁸

In early January of 1794, Aitken conducted further searches in the Surveyor General’s Office at Quebec, “for the plan of the communication from York to Lake Huron (by Mr Collins), found the plan with a blank deed annexed to it signed by Messrs Collins, Kotte & Lines.”¹¹⁹ Five days later Aitken went to see Lord Dorchester at the chateau with Collins, “who was interrogated by His Lordship with respect to the Indian purchases but could give no satisfactory answer.”¹²⁰

On January 27, Lord Dorchester corresponded with Simcoe and advised that, in regard to the Grand River lands, the government intended to make the land grant as beneficial to the Six Nations as possible. He instructed that it would be improper to allow these lands to get into the hands of land jobbers and noted that if lands were to be sold then the Crown should repurchase it. Dorchester also highlighted the fact that the government did not own the lands along the lake [Ontario and/or Erie]:

It were much to be wished that Government possessed all the Lands along the Lake, the want of which will prevent the Communication of the Settlements. It is true that Brant did say we might have them, but as it was not with that cordiality and good will that were to be wished for at the moment, and I think it would not be advisable to press it at any time, if disagreeable to them. In all negotiations of consequence with Indians, the Superintendent General of Indian Affairs, if possible should be present, and as Sir John Johnson is expected upon the opening of Navigation, If the whole of this business can be put off till he comes, it will be best.¹²¹ [emphasis added]

¹¹⁷ Alexander Aitken, Deputy Surveyor for the Midland District, Journal and Field Book, April 10, 1794 [Doc. 59]. AO RG 1-61 File RG 1-61-0-06 Box 1 [Barcode B241800], p. 9.

¹¹⁸ Alexander Aitken, Deputy Surveyor for the Midland District, Journal and Field Book, April 10, 1794 [Doc. 59]. AO RG 1-61 File RG 1-61-0-06 Box 1 [Barcode B241800], p. 9.

¹¹⁹ Alexander Aitken, Deputy Surveyor for the Midland District, Journal and Field Book, April 10, 1794 [Doc. 59]. AO RG 1-61 File RG 1-61-0-06 Box 1 [Barcode B241800], p. 11.

¹²⁰ Alexander Aitken, Deputy Surveyor for the Midland District, Journal and Field Book, April 10, 1794 [Doc. 59]. AO RG 1-61 File RG 1-61-0-06 Box 1 [Barcode B241800], p. 15.

¹²¹ Lord Dorchester, Captain General and Governor in Chief, Upper and Lower Canada, to Colonel John Graves Simcoe, Lieutenant Governor of Upper Canada, January 27, 1794, in E. A. Cruikshank, ed., *The Correspondence of Lieut. Governor John Graves Simcoe, With Allied Documents Relating to His Administration of the Government of Upper Canada*, Vol. II, 1793-1794 (Toronto: Ontario Historical Society, 1924), pp. 137-138 [Doc. 58].

Dorchester also mentioned an enquiry related to a land purchase at Matchedash Bay.¹²² He explained that a plan had been discovered in the Surveyor General's Office, "to which is attached a blank deed, with the names or devices of three Chiefs of the Mississaga [*sic*] Nation, on separate pieces of paper annexed thereto." As the plan document was blank, Dorchester opined that it "not being filled up, is of no validity, or may be applied to all the Land they [the Mississaugas] possess."¹²³ He considered that it was "an omission which will set aside the whole transaction and throw us on the good faith of the Indians for just as much Land as they are willing to allow, and what may be further necessary must be purchased anew."¹²⁴ It seems evident that Governor General Dorchester considered a properly executed deed was required for each cession of territory. Neither the 1787 Toronto Purchase nor the 1788 Gunshot Treaty involving the Mississaugas Indians had properly executed deeds.

In August of 1794, John Ferguson, former Deputy Commissary at Cataraqui, stated that he attended an August 1787 meeting at the Carrying Place at the Bay of Quinte, when Sir John Johnson "settled a purchase of lands on the north side of Lake Ontario with the Missassaguas [*sic*]." Ferguson pointed out that Johnson remedied some differences between the Indians and Captain Crawford concerning a former purchase¹²⁵:

... which Ferguson supposes to be from the Head of Bay Quinte, as far down as the extent of the Missasaguas [*sic*] claim; at which time it was agreed between Sir John and the Indians that these purchases should extend as far back as a man could walk, or go on foot, in a day. John Ferguson further says, he saw the Indians sign two deeds for the lands in question, and that Wabacanane was among the principal chiefs present.

Ferguson also says that he heard the late Captain Crawford say the lower purchase was from the River St. Lawrence River as far back as the Ottawa River, and which he also heard confirmed by Sir John Johnson.¹²⁶

¹²² The inquiry carried out by Alexander Aitken and officials in the Surveyor General's Office of Quebec.

¹²³ Lord Dorchester to John Graves Simcoe, January 27, 1794, in Cruikshank, ed., *The Correspondence of Lieut. Governor John Graves Simcoe...*, Vol. II, pp. 137-138 [Doc. 58].

¹²⁴ Lord Dorchester to John Graves Simcoe, January 27, 1794, in Cruikshank, ed., *The Correspondence of Lieut. Governor John Graves Simcoe...*, Vol. II, pp. 137-138 [Doc. 58].

¹²⁵ The purchase in question appears to be the 1783 Crawford Purchase.

¹²⁶ Statement of John Ferguson, August 1, 1794 [Doc. 60]. LAC RG 5 Series A-1 Vol. 52 pp. 26047-26048 Reel C-4604.

Despite irregularities related to a lack of documentation evident in some of the land purchases, Dorchester expressed confidence that Mississaugas occupants of Upper Canada would provide a testimonial vouching for the honour and reliability of the Crown in land dealings. While Dorchester claimed the Mississaugas were well satisfied, Mississauga chiefs complained about a purchase at Lake Simcoe and near York and also disputed the right of one of the Mississaugas signatories (Chief Wabakanyne) to be a party to ceding land west of the Thames River under the 1784 Between the Lakes Purchase.¹²⁷

At the end of 1794, Lord Dorchester summarized the views of the government with respect to Indian land purchases in a letter to Deputy Superintendent General of Indian Affairs Alexander McKee:

I have likewise thought it expedient for His Majesty's service to Establish further Instructions and Orders relative to the purchase of Indian Territory a Copy of which is also inclosed for your direction and Guidance.

In the year 1787 a purchase was made from the Mississagas of a Portion of their Lands and although the exact limits were probably ascertained and goods to the amount agreed upon paid therefor, yet the proceedings are so informal and irregular as to invalidate and set aside the whole transaction, a Blank Deed found in the Office of the Surveyor General appears to be the only testimonial of this purchase and tho' of no Validity or Value Colonel Simcoe thinks it may be useful in explaining the intentions of the Indians at that time, for that purpose it is now sent to you but it is on no account to be made use of or considered as an Instrument transferring a Right to Indian territory, and is to be returned to the Superintendent General's Office as soon as the Transaction has been explained.¹²⁸

In subsequent years Crown officials continued to attempt to clarify various purchases made from the Mississaugas Indians. In 1795, Alexander McKee interviewed Nathaniel Lines, interpreter, in an effort to determine the boundaries of the 1788 Gunshot Treaty. The recollections of Nathaniel Lines in this regard do not provide the sought after clarity as he stated that the purchase extended from:

¹²⁷ William Chewett to Major E. B. Littlehales, August 31, 1794, in E. A. Cruikshank, ed., *The Correspondence of Lieut. Governor John Graves Simcoe, With Allied Documents Relating to His Administration of the Government of Upper Canada*, Vol. III, 1794-1795 (Toronto: Ontario Historical Society, 1925), p. 24 [Doc. 61].

¹²⁸ Lord Dorchester to Alexander McKee, Deputy Superintendent General of Indian Affairs, December 24, 1794 [Doc. 62]. LAC RG 10 Vol. 8 pp. 8805-8807 Reel C-10999.

... the Head or carrying Place of the Bay of Quinti to a Creek called Tobeka from seven to fourteen Miles above Toronto ... but the lands intended to be sold and purchased at the time are connected all the way in front on Lake Ontario running in Depth 10 or 12 Miles nearly as far as the Rice Lake and above the Rice Lake a common days Journey back from Toronto.¹²⁹

Interpreter Lines' conflation of the boundaries of the 1787 Toronto Purchase and the 1788 Gunshot Treaty might be attributable to confusion arising from the fact that he interpreted at both purchases several years earlier. More importantly, he recalled that the southern boundary of the purchases ran along the Lake Ontario shore. Lines made no mention of the boundary of the purchases extending out into the lake beyond the shore.

Lakes and various rivers and creeks provided valuable food sources for the Mississaugas. In 1796, Mrs. J. G. Simcoe noted the importance of wild rice as a principal food for the Indians and Indian traders in Upper Canada. She recorded in her diary that it "grows plentifully on the edges of the Lakes & in the Creeks of Upper Canada."¹³⁰

On July 4, 1796, Augustus Jones, surveyor, put together a list entitled "Names of the Rivers and Creeks, as they are called by the Mississagues, and the meaning thereof explained in English, beginning at Niagara, and extending along the shore by Burlington Bay." This list provided Mississaugas names for various rivers, streams, creeks, bays, etc. Thirty-five places were named, including the Humber River that was called "Cobechenonck" meaning "leave the canoes and go back" as it was the beginning of the Toronto Carrying Place. The River Credit was called "Missinihe" for trusting creek and York Island was called "Min ne sink".¹³¹

1797 Brant Tract Purchase

The Brant Tract was a purchase of land at Burlington Bay from the Mississaugas for Mohawk Captain Joseph Brant. The purchase was made through a series of transactions between 1795 and 1797. The Quebec Land Board had recommended that land be granted to Brant "for the Accomodation [*sic*] of ... his

¹²⁹ A. McKee, Deputy Superintendent General of Indian Affairs, Record of an interview with Nathaniel Lines, Interpreter, June 10, 1795 [Doc. 65]. LAC RG 8 Series C Vol. 250 Pt. 1 pp. 287-288 Reel C-2849.

¹³⁰ Mrs. J. G. Simcoe, journal extract, ca. 1796 [Doc. 72]. AO F 47-10-0-7 Reel MS 1812.

¹³¹ A. Jones, Deputy Provincial Surveyor, "Names of the Rivers and Creeks, as they are called by the Mississagues, and the meaning thereof explained in English, beginning at Niagara, and extending along the shore by Burlington Bay," July 4, 1796 [Doc. 77]. AO RG 1-2-1 Vol. 32 pp. 103 and 105 Reel MS 7433.

military & family claims.”¹³² Sometime between 1791 and 1795, Lord Dorchester appears to have told Captain Brant that he could choose 3,450 acres of land in payment for his service and loyalty to the British during the American Revolution.¹³³ Brant apparently made an agreement with the Mississaugas in 1795 to purchase some of their lands at Burlington Bay.¹³⁴ According to Dorothy Turcotte, author of *Remember the Brant Inn*, Brant chose “the finest tract of land around the Head of the Lake. It was situated at the north end of the beach strip with a fine view of both Lake Ontario and Burlington Bay.”¹³⁵

In October 1795, Simcoe informed Lord Dorchester that Brant had already purchased land “near the Little Lake or Burlington Bay” from the Mississaugas, and, as Simcoe considered Brant’s personal purchase to be invalid and “a principle which I consider in no case to be admissible,” he would immediately direct Colonel John Butler,¹³⁶ Indian Agent at Niagara, to buy the land.¹³⁷

¹³² John Graves Simcoe, Lieutenant Governor, to Alexander McKee, Deputy Superintendent General of Indian Affairs, May 10, 1795 [Doc. 64]. LAC RG 10 Vol. 9 Reel C-10,999. The decision had been made prior to the 1791 split of the Province of Quebec into Upper and Lower Canada.

¹³³ Lord Dorchester, Commander in Chief of British North America, to John Graves Simcoe, Lieutenant Governor of Upper Canada, January 24, 1796, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, pp. 179-180 [Doc. 73]. This amount was based on 3,000 acres for Brant as a captain in the British Army, and 50 acres each for his wife and eight children. Dorothy Turcotte, *Remember the Brant Inn* (Erin: The Boston Mills Press, 1990), pp. 7-9 [Doc. 151].

¹³⁴ J. G. Simcoe, Lieutenant Governor of Upper Canada, to Lord Dorchester, Commander in Chief of British North America, October 9, 1795, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 101 [Doc. 66].

¹³⁵ Dorothy Turcotte, *Remember the Brant Inn*, 1990, pp. 7-9 [Doc. 151].

¹³⁶ Simcoe complained that Colonel Butler was unable to act effectively for the Crown due to his deafness preventing him from speaking or interpreting at public councils. J. G. Simcoe, Lieutenant Governor of Upper Canada, to Lord Dorchester, Commander in Chief of British North America, October 9, 1795, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 101 [Doc. 66]. Dorchester also noted that Butler’s “age and infirmities” prevented him from performing his tasks at Niagara, and expressed hope that he would retire. Dorchester to Simcoe, November 5, 1795, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, pp. 125-126 [Doc. 70]. Simcoe also complained that Butler could not speak the Mississaugas’ language. Simcoe to Dorchester, April 9, 1796, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 239 [Doc. 74].

Despite his inability to speak Mississauga and his reduced capacity, Butler was much esteemed by Brant as a man who understood First Nations’ manners and customs. See “Proceedings of a Ceremony of Condolence on the Death of the Late Lieutenant Colo. Butler Deputy Agent of Indian Affairs, Contained in a Speech on the Occasion Addressed to Government by Captain Brant and the Chiefs of the Six Nations,” May 16, 1796, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, pp. 265-267 [Doc. 76].

¹³⁷ J. G. Simcoe, Lieutenant Governor of Upper Canada, to Lord Dorchester, Commander in Chief of British North America, October 9, 1795, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 101 [Doc. 66].

Less than two weeks later, Simcoe instructed Butler to purchase lands shown in a sketch he forwarded. The agreement with the Mississaugas was to be made “in the mode prescribed by Lord Dorchester’s orders and regulations.” A sketch attached to the instructions contains the following note, “Purchase Lines by Major Hall under Plan, by Deed of Cession from the Indians 22 May 1784, explained & confirmed by another Deed, 7 Dec 1792.”¹³⁸ Simcoe instructed Butler to explain to Captain Brant that the Mississaugas were to “**retain their customary use of the Beach &c.** that a public road will be cut through it and it is probable a Bridge will be shortly built to connect the two Beaches.”¹³⁹ [emphasis added]

Three days later, the Mississaugas signed a provisional agreement to surrender 3,450 acres at Burlington Bay to the Crown in consideration of £100 “good and lawfull money of the Province.”¹⁴⁰ The tract was described by geographical points, distances, compass bearings, and the boundary of the Between the Lakes Purchase. The agreement was signed by Wabakanyne, Wabanip, Wanapenant, Tabandan, Okamapenes, and Potakquan, and by Butler, officers from the Fifth Regiment (Captain R. H. Sheaffe, Lieutenant J. M. Mason, Ensign Wm. Gainsfort), Indian Department Storekeeper William Johnson Chew, and Surveyor Augustus Jones.¹⁴¹

According to Butler’s November 9, 1795, report, he called the Mississaugas leaders together at the head of the lake in accordance with Simcoe’s instructions. Interpreter John Baptiste Rousseau assisted Butler at the council, where the Mississaugas were shown the sketch of the land that the Crown wished to purchase for Captain Brant. According to Butler, the Mississaugas “consented to part with it without any hesitation whatever.” Butler noted that the Mississaugas signed the agreement in the presence of Captain Sheaffe and Lieutenant Mason, who had been sent to certify the delivery of the “Annual Presents.” Butler

¹³⁸ J. G. Simcoe, Lieutenant Governor, to John Butler, Indian Agent, October 20, 1795, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 106 [Doc. 67]. E. B. Littlehales, Secretary to the Lieutenant Governor, forwarded these instructions to Butler on October 21, 1795. E. B. Littlehales to J. Butler, Indian Agent, October 21, 1795 [Doc. 68]. LAC RG 8 Series C Vol. 248 p. 408 Reel C-2848.

¹³⁹ J. G. Simcoe, Lieutenant Governor, to John Butler, Indian Agent, October 20, 1795, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 106 [Doc. 67].

¹⁴⁰ Surrender No. 3 3/4, October 24, 1795, in Canada, *Indian Treaties and Surrenders ...*, Vol. I, pp. 8-9 (also on LAC RG 8 Series C Vol. 249 pp. 85-86 Reel C-2849) [Doc. 69].

¹⁴¹ Surrender No. 3 3/4, October 24, 1795, in Canada, *Indian Treaties and Surrenders ...* Vol. I, pp. 8-9 (also on LAC RG 8 Series C Vol. 249 pp. 85-86 Reel C-2849) [Doc. 69]. W. J. Chew, Indian Department Storekeeper, forwarded a copy of the agreement to his father, Joseph Chew, Secretary of Indian Affairs, on April 29, 1796 [Doc. 75]. LAC RG 8 Series C Vol. 249 pp. 83-84 Reel C-2849.

stressed that the Mississaugas “Appeared to be Very Well Pleased at the Idea of Capt. Brant’s Settling and Improving land so near them.”¹⁴²

A few months after Butler made the provisional purchase, Lord Dorchester advised Simcoe that he had seen Simcoe’s instructions to Butler and protested that Simcoe did not have the authority to order purchases of Indian lands without his approval as Commander in Chief.¹⁴³ Dorchester stated that he had previously advised Brant that he should have a grant of land and that, if Simcoe concurred and continued to be satisfied with Brant’s conduct, Simcoe should forward sketches and a requisition to Dorchester and to the Deputy Superintendent General, as was required by Dorchester’s instructions of December 26, 1794.¹⁴⁴

On April 9, 1796, Simcoe corresponded with Dorchester and enclosed a copy of a letter from the Acting Surveyor General with a sketch of lands to be purchased from the Mississaugas Indians for Captain Brant. Simcoe also recommended immediately concluding the previously ordered purchase of lands between the head of Lake Ontario, or Burlington Bay, and the Etobicoke River, and extending back into the country allowing the formation of townships 12 miles in depth. Simcoe also argued that the Mississaugas should retain their rivers and fishing grounds if these lands were purchased:

These land should be purchased so as to leave the Mississaugas in full possession of their rivers and fishing grounds, nor should I think it by any means advisable to grant them universally, but only in such detached lots as might tend to facilitate the communication between this place and Burlington Bay.¹⁴⁵ [emphasis added]

On September 12, 1796, three of the original Mississaugas signatories signed a document at Navy Hall agreeing to execute a regular deed of conveyance of the

¹⁴² John Butler, Indian Agent, to Major E. B. Littlehales, November 9, 1795 [Doc. 71]. LAC RG 8 Series C Vol. 248 pp. 409-410 Reel C-2848.

¹⁴³ Lord Dorchester, Commander in Chief of British North America, to John Graves Simcoe, Lieutenant Governor of Upper Canada, January 24, 1796, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, pp. 179-180 [Doc. 73].

¹⁴⁴ Lord Dorchester to Sir John Johnson, Superintendent General and Inspector General of Indian Affairs, December 26, 1794, in Cruikshank, ed., *Simcoe Correspondence*, Vol. III, pp. 241-242 [Doc. 63].

¹⁴⁵ John Graves Simcoe, Lieutenant Governor of Upper Canada, to Lord Dorchester, Captain General and Governor in Chief, Upper and Lower Canada, April 9, 1796, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 239 [Doc. 74]. The map referred to is likely the sketch attached to the provisional agreement of September 12, 1796. See sketch titled “A Survey of Lands to be Purchased from the Missasagues for Captain Brant containing about 3450 Acres,” attached to Provisional Agreement, September 12, 1796 [Doc. 78]. LAC RG 8 Series C Vol. 249 pp. 418-419 Reel C-2849.

Brant Tract upon the receipt of three hundred dollars in “Indian Goods at the Montreal price.”¹⁴⁶ The agreement was signed by Wabanip, Wanapinant, and Tabandon; and by P. Selby, Assistant Secretary of Indian Affairs; Matthew Elliott, Superintendent of Indian Affairs at Amherstburg; and Storekeeper Chew. Alexander McKee, Deputy Superintendent General and Deputy Inspector General of Indian Affairs, represented the Crown.¹⁴⁷

A month after McKee had made the agreement, he forwarded a copy of it with a letter to Secretary Chew of October 16, 1796, making arrangements for the goods required for payment. In this letter, McKee referred to the December 26, 1794 “General orders” from Dorchester, and requested special authority to allow the Niagara Superintendent to oversee the final step in the Brant Tract purchase, that of distributing the goods.¹⁴⁸

The Brant Tract purchase was finalized by William Claus, Indian Superintendent at Niagara, on August 21, 1797. The description of the land had been prepared by D. W. Smith, the Assistant Surveyor General, based on a survey by Augustus Jones.¹⁴⁹

¹⁴⁶ The price stipulated in the original provisional agreement was £100 in provincial currency. It is unclear what type of currency is meant by “three hundred Dollars”; however, this amount in Canadian currency would have been roughly equal to the £75.2.3 referred to in a November 1796 requisition as payment for the lands. See Requisition, November 16, 1796 [Doc. 80]. LAC RG 8 Series C Vol. 249 p. 421 Reel C-2849.

¹⁴⁷ Provisional Agreement, September 12, 1796 [Doc. 78]. LAC RG 8 Series C Vol. 249 pp. 418-419 Reel C-2849. A sketch titled “A Survey of Lands to be Purchased from the Missisagues for Captain Brant containing about 3450 Acres” was attached.

¹⁴⁸ Alexander McKee, Deputy Superintendent General of Indian Affairs, to Joseph Chew, Secretary of Indian Affairs, October 16, 1796 [Doc. 79]. LAC RG 8 Series C Vol. 249 p. 420 Reel C-2849.

¹⁴⁹ The Brant Tract survey description reads: “Commencing on the North Bank of Burlington Bay, with limit between the lands heretofore purchased from the Missisagues, & the lands intended to be purchased from the Missisagues for Capt. Brant; that being the South Eastern Angle of the Township of Flamborough East;—then North 45 degrees West, along the purchase line, 288 Chains, more or less; The North 45 degrees East, 120 Chains—Then South 45 degrees East to the mouth of a small Creek, (which empties itself into Lake Ontario) called by the Indians Lamabinicon; then Westerly, along the Shore of Lake Ontario to where the Sandy Beach, (otherwise called North Neck) joins to the main Land; then along the eastern shore of the said Beach to the outlet, from the Little Lake, or Burlington Bay as aforesaid, & then North 45 degrees West, to the place of beginning—Containing 3450 Acres, may there be more or less.” See “A Purchase of Further Lands from the Mississaguas for Joseph Brant,” prepared by D. W. Smith, Acting Surveyor General, August 3, 1797, in E. A. Cruikshank and A. F. Hunter, eds., *The Correspondence of the Honourable Peter Russell, With Allied Documents Relating to his Administration of the Government of Upper Canada During the Official Term of Lieut.-Governor J. G. Simcoe While on Leave of Absence*, Vol. I, 1796-1797 (Toronto: Ontario Historical Society, 1932), pp. 240-241 [Doc. 81].

Goods in the value of £75.2.6 were distributed, listed, and acknowledged as having been received by the Mississaugas Indians.¹⁵⁰

Issues related to Land Purchased from the Mississaugas of the Credit

An August 28, 1797, Order in Council noted the great importance of the land on the north side of the lake beginning at the Tobicot (Etobicoke) River and extending to the head of the lake, “still in the possession of the Mississaugas ... & the obvious necessity of it being eventually purchased & incorporated into the rest of the Province.”¹⁵¹

In September of 1797, Peter Russell, Administrator of the Government of Upper Canada, explained to Robert Prescott, Governor General of Canada, that he could not locate records about all of the land purchases made from Indians. He remarked about disputes between settlers and “the Messissagues [*sic*] & the Rice Lake Indians in consequence,” in a number of townships on the north side of Lake Ontario. Russell requested either the originals or copies of the following land purchase deeds:

The Deed of Cession from the Indians to the Crown for a Purchase made in 1787, for a Tract at Toronto and another at Matchidash on Lake Huron.

The Deed for the Cession of the Country on the No. side of Lake Ontario from the head of the Bay of Quinté to York (purchased perhaps by Capt. Crawford in 1787).¹⁵²

Russell clearly was discussing both the 1787 Toronto Purchase and the 1788 Gunshot Treaty, though he erroneously described the latter as taking place in 1787 and “perhaps” involving Captain Crawford. Russell inquired as to how far back the purchased lands extended (Gunshot Treaty), and “how far westward of the Rideau and Gananoqui [*sic*] Waters do the purchased lands extend? I shall likewise be glad to know which Islands in the River St. Lawrence remain with the Indians, and which have been ceded to the Crown.”¹⁵³ The inquiry from Peter

¹⁵⁰ Surrender No. 8, August 21, 1797, in Canada, *Indian Treaties and Surrenders ...*, Vol. I, pp. 22-23 [Doc. 82].

¹⁵¹ Order in Council, August 28, 1797 [Doc. 83]. LAC RG 1 Series E3 Vol. 58 File 02 Reel C-1197 pp. 12-13.

¹⁵² Peter Russell to Robert Prescott, Governor General, September 21, 1797, in Cruikshank and Hunter, eds., *The Correspondence of the Honourable Peter Russell ...*, Vol. I, pp. 284-285 [Doc. 84].

¹⁵³ Peter Russell to Robert Prescott, Governor General, September 21, 1797, in Cruikshank and Hunter, eds., *The Correspondence of the Honourable Peter Russell ...*, Vol. I, pp. 284-285 [Doc. 84].

Russell about the status of islands in the St. Lawrence indicates that while certain islands had been surrendered, the river bed had not.

On December 14, 1797, Peter Russell issued a Proclamation concerning many complaints made by the Mississaugas Indians about depredations committed upon their fisheries and burial places. Russell then proclaimed that:

Be it therefore known that if any complaint shall hereafter be made of injuries done to the fisheries and burial places of the said Indians, or either of them, and the persons can be ascertained who misdemeaned himself or themselves, in manner aforesaid, such person or persons will be proceeded against with the utmost severity, and a proper example made of any herein offending.¹⁵⁴

In April 1798, Captain Joseph Brant corresponded with a Crown official and provided a description of a tract of land marked off for the Mississaugas. Brant described the bounds of the land and commented that the reserved fisheries would be spoiled if settlement took place in the marshes of the creeks:

... a mile to the West of the 12 Mile Creek to extent 3 miles from the Lake and then a Strait line till it strikes the line of the River of Credit 3 miles from the Lake, **by that means the fisheries of all the Rivers will be reserved and otherwise it would be impossible for if the Marshes of the Creeks should be settled it would certainly spoil the fishery.**¹⁵⁵ [emphasis added]

In mid-October 1798, Brant wrote to Peter Russell and explained he had just returned from salmon fishing on the River Credit. He referred to a proposed purchase of Mississaugas lands and stated that it did not cause him alarm.¹⁵⁶

Early in 1799 the Executive Council met and the President outlined certain conditions related to the lease of a mill and surrounding lands on the Humber River. One of the conditions dictated that wicker stops “be placed above the Race to prevent the salmon from being drawn into the Steam & either caught

¹⁵⁴ Peter Russell, President, Administering the Government, Proclamation, December 14, 1797, in *Fourth Report of the Bureau of Archives for the Province of Ontario, 1906* (Toronto: L. K. Cameron, 1907), p. 193 [Doc. 85].

¹⁵⁵ Captain Joseph Brant to Unknown [Peter Russell?], April 5, 1798 [Doc. 86]. LAC RG 8 Vol. 251 Reel C-2850.

¹⁵⁶ Joseph Brant to Peter Russell, President, Administering the Government, October 14, 1798 [Doc. 87]. LAC MG 19 F 28 Vol. 20 p. 102 Reel M-5218.

within the Race or cut to pieces by the wheel.” Other criteria related to free passage for the salmon to ascend and descend the river.¹⁵⁷

As noted earlier in this report, an 1800 map entitled “A map of the province of Upper Canada describing all the new settlements, towns, townships, &c. with the countries adjacent, from Quebec to Lake Huron Compiled, at the Request of His Excellency Major General John G. Simcoe, First Lieutenant Governor by David William Smyth Esqr Surveyor General,” outlines certain salmon fishing areas. In particular, salmon fisheries are identified along the northwestern shore of Lake Ontario, at the mouth of the River Credit and the Etobicoke.¹⁵⁸

On June 1, 1801, James Givins, Indian Affairs, reported to James Green, Secretary of the Lieutenant Governor, that he learned from the Mississaugas that a great flood on the Credit River prevented the Indians from catching salmon. The water was so “thick & muddy” the Indians could not see the fish.¹⁵⁹

¹⁵⁷ Executive Council of Upper Canada, January 19, 1799 [Doc. 88]. LAC RG 1 Series E3 Vol. 34B File H23/H24 pp. 102-103 Reel C-1193.

¹⁵⁸ *A map of the province of Upper Canada describing all the new settlements, towns, townships, &c. with the countries adjacent, from Quebec to Lake Huron Compiled, at the Request of His Excellency Major General John G. Simcoe, First Lieutenant Governor by David William Smyth Esqr Surveyor General. London, Published by W. Faden, Geographer to His Majesty and to H.R.H. Prince of Wales. Charing Cross, April 12th 1800*, accessed at <http://yorkspace.library.yorku.ca/xmlui/handle/10315/20542> [Doc. 89].

¹⁵⁹ J. Givens, Indian Agent, to Major Green, Secretary to the Lieutenant Governor, June 1, 1801 [Doc. 90]. LAC RG 5 Series A-1 Vol. 2 pp. 624-625 Reel C-4502.

Chapter Four: Land Cessions 1805-1820

1805 Toronto Purchase Renewal

Due to the irregularity of the 1787 Toronto Purchase, Deputy Superintendent General William Claus met with the Mississaugas of the Credit Nation on July 31, 1805. During this meeting Claus explained that the Crown did not know the exact limits of the 1787 Toronto Purchase and requested the gathered chiefs to describe the boundaries so that a fresh deed could be executed.¹⁶⁰ Chief Quenepenon replied and explained that all of the Mississauga chiefs who had participated in the original sale were dead but they had informed their successors of the boundaries which began on the east side of the Etobicoke River:

...
I now speak for all the Chiefs of the Mississaugas ...

The said Chiefs declared the Line of the said purchase began on the East side of the River Etobicook, that it follows the course of the said River until the line running N. 22 degrees W intersected the said R. Etobicook about 3 miles from its Entrance and then continuing the said Line 28 miles: that it has always been within their knowledge that the R. Etobicook divided the lands of the Mississauges from that sold in 1787 to His Majesty until the intersection as before mentd. and they are perfectly satisfied that the line should so continue.¹⁶¹

Chief Quenepenon insisted that the old chiefs “particularly reserved the fishery of the River to our Nation.” He reminded Claus that Colonel Butler in 1787 replied to the Mississaugas’ request for the fisheries by stating, “**We do not want the water, we want the land.**”¹⁶² [emphasis added]

On August 1, 1805, Crown officials and the Mississaugas of the Credit executed a new deed for the purchase of about 250,880 acres confirming the Toronto Purchase of 1787 and clearly establishing its boundaries. The deed included a special provision protecting Mississaugas fishing rights on the Etobicoke River.

¹⁶⁰ P. Selby, Assistant Secretary of Indian Affairs, “Proceedings of a Meeting with the Mississaugas at the River Credit,” July 31, 1805 [Doc. 91]. LAC MG 11 Q Series Vol. 303 Reel C-10231.

¹⁶¹ “River Credit 31st July 1805,” July 31, 1805 [Doc. 92]. LAC MG 19 F 1 Vol. 9 pp. 125-126v Reel C-1480.

¹⁶² P. Selby, Assistant Secretary of Indian Affairs, “Proceedings of a Meeting with the Mississaugas at the River Credit,” July 31, 1805 [Doc. 91]. LAC MG 11 Q Series Vol. 303 Reel C-10231.

The ceded tract was shown on an attached plan. This surrender became known as Surrender No. 13:¹⁶³

... all that tract or parcel of land commencing on the east bank of the south outlet of the River Etobicoke; thence up the same, following the several windings and turnings of the said river to a maple tree blazed on four sides at the distance of three miles and three-quarters, in a straight line from the mouth of the said river; thence north twenty-two degrees west twenty-four miles and one quarter; then north sixty-eight degrees east fourteen miles; then south twenty-two degrees east twenty-eight miles, more or less, to Lake Ontario; then westerly along the water's edge of Lake Ontario to the eastern bank of the south outlet of the River Etobicoke, being the place of beginning, containing Two hundred and fifty thousand, eight hundred and eighty acres, together with all the woods and waters thereon ... **save and except the fishery in the said River Etobicoke, which they the said Chiefs, Warriors and people expressly reserve for the sole use of themselves and the Mississague Nation.** ¹⁶⁴ [emphasis added]

1805 Head of the Lake Purchase

As noted earlier, beginning in 1796 government officials attempted to secure Mississaugas land lying between the Etobicoke River and the Brant Tract at the head of Lake Ontario.¹⁶⁵ The Mississaugas, with the assistance of Joseph Brant, resisted the government purchase offers for several years. Although no official instructions to make a purchase from the Mississaugas have been found, it is evident that in 1805 the government had once again turned its attention to the tract of land lying between Burlington Bay and the Etobicoke River.

At the same meeting to discuss the renewal of the Toronto Purchase, Chief Quinepenon informed Claus that he and the other chiefs wanted to remain under Claus's protection, "But it is hard for us to give away more Land. The Young Men

¹⁶³ Surrender No. 13 [Toronto Purchase], September 23, 1787-June 18, 1806, and attached plan titled "The descriptive plan of the Toronto purchase made on 23d September 1787 and Completed on the 1st day of August 1805," in Canada, *Indian Treaties and Surrenders*, Vol. I, pp. 32-36 [Doc. 43].

¹⁶⁴ Indenture between William Claus and the Mississague Nation, August 1, 1805 [Doc. 93]. LAC RG 10 Vol. 1 pp. 301-303 Reel C-10996.

¹⁶⁵ John Graves Simcoe, Lieutenant Governor of Upper Canada, to Lord Dorchester, Captain General and Governor in Chief, Upper and Lower Canada, April 9, 1796, in Cruikshank, ed., *Simcoe Correspondence*, Vol. IV, p. 239 [Doc. 74].

& Women have found fault with so much having been sold before.” The chief then produced a sheet of bark with carved marks representing the additional land they were willing to sell to the British. Evidently, the bark outlined lands from the Etobicoke River extending to Captain Brant’s tract. The Mississaugas left the sale price for the land “to the generosity of our Father.”¹⁶⁶

The Mississaugas, however, reserved “a mile on each side of the Credit to its source; half a mile on each side the sixteen mile Creek & half a mile on each side the Twelve Mile Creek; A tract sold by them to the Tuscarora’s [*sic*] near Brant’s and a Sugar Bush which they gave to Mrs. Brant.”¹⁶⁷ The Mississaugas also wished to retain land two to three chains wide along the length of the Beach so that they could not be driven off. In exchange, the Mississaugas offered to sell land “Two miles to the Northward of the road and all to the southward of it except the Two or three Chains on the Beach.”¹⁶⁸ In reply to this offer, Deputy Superintendent General Claus remarked that he was quite certain that the Governor would not accept these land sale terms.¹⁶⁹

On August 2, 1805, the Mississauga chiefs, in consideration of £1000, surrendered a tract of land on Lake Ontario containing 70,784 acres. The chiefs specifically requested protection when they camped along the Lake Ontario shore and reserved to the Mississaugas Nation:

... the sole right of the fisheries in the Twelve Mile Creek, the Sixteen Mile Creek, the Etobicoke River together with the flats or low grounds on said creeks and river which we have heretofore cultivated and on which we have camps our camps and also the sole right of the fishery in the River Credit with one mile on each side of the said river.¹⁷⁰

¹⁶⁶ P. Selby, Assistant Secretary of Indian Affairs, “Proceedings of a Meeting with the Mississaugas at the River Credit,” July 31, 1805 [Doc. 91]. LAC MG 11 Q Series Vol. 303 Reel C-10231.

¹⁶⁷ P. Selby, Assistant Secretary of Indian Affairs, Proceedings of a Meeting with the Mississaugas at the River Credit, August 1, 1805 [Doc. 94]. LAC MG 11 Q Series Vol. 303 pp. 50-54 Reel C-10231.

¹⁶⁸ P. Selby, Assistant Secretary of Indian Affairs, Proceedings of a Meeting with the Mississaugas at the River Credit, August 1, 1805 [Doc. 94]. LAC MG 11 Q Series Vol. 303 pp. 50-54 Reel C-10231. Note: The road referred to was Dundas Street which ran through this unsurrendered tract and had been completed in 1796. See Roger E. Riendeau, *Mississauga: An Illustrated History* (s.l.: Windsor Publications Ltd., 1985), p. 15 [Doc. 148].

¹⁶⁹ P. Selby, Assistant Secretary of Indian Affairs, Proceedings of a Meeting with the Mississaugas at the River Credit, August 1, 1805 [Doc. 94]. LAC MG 11 Q Series Vol. 303 pp. 50-54 Reel C-10231.

¹⁷⁰ Provisional Agreement between the Principal Chiefs of the Mississauga Nation, River Credit, and William Claus, Deputy Superintendent General of Indian Affairs, August 2, 1805 [Doc. 95]. LAC MG 11 CO 42 Vol. 340 pp. 43-43v Reel B-290. See also P. Selby, Assistant

The bounds of the purchased land were described as:

... commencing at the eastern bank of the mouth of the River Etobicoke being on the limit of the western boundary line of the Toronto Purchase in the year 1787 ... Then north twenty-two degrees west six miles then south thirty-eight degrees west twenty-six miles more or less until it intersects a line on a course north forty-five degrees produced from the outlet at Burlington Bay then along the said produced line, one mile more or less to the lands granted to Captain Brant then north forty-five degrees east three miles and a half more or less to Lake Ontario ... **Then northeasterly along the water's edge of Lake Ontario to the eastern bank of the River Etobicoke** being the place of beginning.¹⁷¹ [emphasis added]

Lise Hansen, anthropologist, pointed out that one of earliest explicit references to fisheries in pre-1850 Indian land cessions took place in the 1805 treaties with the Mississaugas. Hansen noted that as a condition of the land surrenders the Mississaugas reserved to themselves “the sole right of the fisheries” in the 12 Mile Creek, 16 Mile Creek, Credit River, and Etobicoke River from the mouth of these waters to a specified distance upstream.¹⁷²

Survey of Surrendered Land

On August 8, 1805, Claus wrote to Lieutenant Colonel Green and enclosed a deed confirming the Toronto Purchase of 1787 and the Provisional Agreement with the Mississaugas for the purchase of “four concessions deep in the front of their land lying between the Etobicoke and Burlington Bay.”¹⁷³

In mid-February of 1806, C. B. Wyatt, Surveyor General, sent survey instructions to Samuel Wilmot for the tract of land on Lake Ontario between the Etobicoke River and the Brant Tract recently purchased from the Mississaugas. In addition to describing the bounds of the land, Wyatt advised that the Indians had reserved a mile on each side of the River Credit:

Secretary of Indian Affairs, “Proceedings of a Meeting with the Mississague at the River Credit,” August 2, 1805 [Doc. 96]. LAC MG 11 Q Series Vol. 303 pp. 55-57 Reel C-10231.

¹⁷¹ Provisional Agreement between the Principal Chiefs of the Mississauga Nation, River Credit, and William Claus, Deputy Superintendent General of Indian Affairs, August 2, 1805 [Doc. 95]. LAC MG 11 CO 42 Vol. 340 pp. 43-43v Reel B-290.

¹⁷² Lise C. Hansen, “Treaty Fishing Rights and the Development of Fisheries Legislation in Ontario: A Primer,” Ontario Native Affairs Secretariat, May 1991, p. 3 [Doc. 153].

¹⁷³ William Claus, Deputy Superintendent General of Indian Affairs, Fort George, to Lieutenant-Colonel Green, August 8, 1805 [Doc. 97]. LAC MG11 Q Series Vol. 303 Reel C-10231.

The Indians having reserved one [Mile] upon each side of the River Credit for their own, you will be particularly careful not to encroach. For this purpose, you had better take the several [missing word(s)] and distances of that River, which will enable [you] to lay off one Mile upon each side thereof, by [missing word(s)] of Parallel lines, conformable to the General [missing words] the said River, upon the same principle as a similar Reserve, heretofore laid off upon the Grand River, which lines being marked, will determine the position of the lots which your are to lay off. This you can do perhaps, with greater facility, and with losing less [of] your time, as you Traverse the Shore of the Lake, which will save you making a Trip expressly for that purpose.¹⁷⁴

On July 1, 1806, William Stanton of the President's Office issued directions for a survey of the Etobicoke River from its mouth to the depth of the "Mississague Purchase in order to determine the boundaries between Etobicoke Township and Township No. 1 within the purchased land."¹⁷⁵ Six days later, Wilmot reported to Wyatt that he began the survey, "at the Mouth of the River Etobicoke but on the west side thereof" and surveyed as follows:

... from thence measured Six Miles, and planted the necessary posts, at the North west corner of the purchase. Then returned and commenced Traversing the Shore of Lake Ontario from the River Etobicoke to the River Credit, which I also traversed about seven Miles, then continued the Traverse of the Lake Shore to the outlet of a small Creek where I found Captain Brant's North East Boundary line, which course was about N45°W. Then proceeded to measure the said line and found the distance 293 Chains to the North West corner; as this distance being greater than was expected, I proceeded to the South West Boundary of the Etobicoke Township, where I first Commenced the Survey....¹⁷⁶

On August 15, 1806, the Surveyor General requested that the President administering the Government of Upper Canada be informed that exclusive of a reservation of the fisheries and land measuring a mile on each side of the River

¹⁷⁴ C. B. Wyatt, Surveyor General, to Samuel Wilmot, Surveyor, February 14, 1806 [Doc. 98]. OMNR Survey Records, Letters of Instruction, Volume 3, No. 239a.

¹⁷⁵ William Stanton, C.C. in the President's Office, to Charles Burton Wyatt, Surveyor General, July 1, 1806 [Doc. 100]. LAC RG 5 Series A-1 Vol. 5 Pt. 2 pp. 1920-1921 Reel C-4503.

¹⁷⁶ S. Wilmot, Surveyor, to Charles B. Wyatt, Surveyor General, June 7, 1806 [Doc. 99]. AO RG 1-2-1 Vol. 39 Reel MS 7435.

Credit, the August 1, 1805, “provisional treaty” reserved the fishery rights in Twelve Mile and Sixteen Mile Creeks to the Mississaugas Nation. Wyatt noted the Mississaugas also retained the Etobicoke River and the flats or low grounds along previously mentioned creeks and rivers. He suggested a new survey identifying the true courses of the various creeks and rivers for the purpose of determining whether any Indian reserves lay along banks of the interior waterway.¹⁷⁷

That same day, Thomas Scott, Chairman of the Executive Council of Upper Canada, recommended that a surveyor determine what flats and low lying grounds were reserved for the Indians from the recently purchased land:

As it is found to be accompanied with difficulty to ascertain the intent and meaning of that part of the Provisional Agreement for the purchase of the Mississagua [*sic*] Tract, wherein the Indians reserve to themselves the Flats and low grounds on the Creeks and Rivers within the said Tract, which the Indians had, before the said Provisional Agreement, cultivated, and also had made their Camps; The Board therefore recommend to Your Honor, to order a Surveyor to be sent out with Mr. St. John, the Interpreter, to ascertain what Flats and low grounds are reserved by the Provisional Agreement...¹⁷⁸

On August 18, Wilmot reported to Wyatt about the progress of his survey:

The Reserves on the 16 and 12 Mile Creeks, are to be one quarter of a Mile on each side of the said Creeks, and to extend to the 2nd. Concession line from the Lake Shore, then to extend up the Creeks to enclose all the flat Ground to the extent of the purchase that the Banks or high land on each side of these two Creeks may be the Boundary of the Mississague Indian Reserve. The Reserve lines are to be the same as on the River Credit, by Traversing and taking the general course of the 12 and 16 Mile Creeks, which will take up some time to complete the Survey. There is no time

¹⁷⁷ C. B. Wyatt, Surveyor General, to William Stanton, August 15, 1806 [Doc. 101]. LAC RG 1 Series E3 Vol. 93 File W17 pp. 9-11 Reel C-1202.

¹⁷⁸ Thomas Scott, Chairman, Executive Council of Upper Canada, to Alexander Grant, President administering the Government of the Province of Upper Canada, August 15, 1806 [Doc. 102]. LAC RG 1 Series E3 Vol. 93 File W17 pp. 7-8 Reel C-1202.

lost by my sending this express, having sufficient men to go on with the Survey.¹⁷⁹

At the end of August, Wilmot discussed how he engaged a party of Mississaugas Indians, who provided information about their reserves on the 16 and 12 Mile Creeks. He noted that the reserves extended a half-mile on each side of the creeks and took in all the Flats with a bank on each side as the boundary of their reserve.¹⁸⁰

On September 5 and 6, 1806, the 85,000-acre tract on the shore of Lake Ontario, stretching from the Etobicoke River to the head of the lake, was formally surrendered by the Mississaugas of the Credit in exchange for goods approximately valued at £1,000. The indenture included a detailed outline of the surrendered land and excepted out on behalf of the Mississaugas:

... the sole right of the fisheries in the Twelve Mile Creek, the Sixteen Mile Creek, the River Credit and the River Etobicoke, together with the lands on each side of the said creeks and the River Credit as delineated and laid out on the annexed plan, the said right of fishery and reserves extending from Lake Ontario up the said creeks and River Credit....¹⁸¹

On February 10, 1807, Thomas Ridout of the Surveyor General's Office informed the President's Office that several broken lots "situate upon Lake Ontario" remained from the Mississaugas land purchase and were available for settlement.¹⁸²

At the end of 1809, Samuel Wilmot, surveyor, contacted the Surveyor General and requested supplies. He also requested information about the boundary of the Purchase [Mississaugas] along Lake Ontario: "Please acquaint me what is

¹⁷⁹ Samuel Wilmot, Deputy Government Surveyor, Twelve Mile Creek, to Charles Burton Wyatt, Surveyor General, August 18, 1806 [Doc. 103]. AO RG 1-2-1 Vol. 39 pp. 19-20 Reel MS 7435.

¹⁸⁰ Samuel Wilmot, Deputy Government Surveyor, York, to Charles Burton Wyatt, Surveyor General, August 27, 1806 [Doc. 104]. AO RG 1-2-1 Vol. 39 Reel MS 7435.

¹⁸¹ Surrender No. 14, September 5-6, 1806, in Canada, *Indian Treaties and Surrenders ...*, Vol. I, pp. 36-40 [Doc. 105]. See also copy of Agreement between Chechalk, Quenepenon, Wabukanyne, Okemapenese, Wabenose, Kebonecense, Osenego, Acheton, Pateguan, and Wabakegogo, Mississauga Nation, and King George III, represented by W. Claus, Deputy Superintendent General of Indian Affairs, September 6, 1806, in Province of Upper Canada, "Report of the Select Committee to which was referred the Petition of the Indians residing on the river Credit," in *Appendix to Journal of the House of Assembly of Upper Canada, 1829* (Toronto: F. Collins, 1829), Appendix 17, No. 32 [Doc. 106].

¹⁸² Thomas Ridout, Clerk, Surveyor General's Office, York, to William Stanton, President's Office, February 10, 1807 [Doc. 107]. LAC RG 5 Series A-1 Vol. 6 Reel C-4504.

considered the boundary of the Purchase whether waters or a certain distance from Lake Ontario that I can tell when I come to it.”¹⁸³ No response to this boundary location inquiry has been located.

Fisheries Protection

On March 10, 1807, the Parliament of Great Britain passed *An Act for the Preservation of Salmon* applicable to the Province of Upper Canada. The Act protected salmon in Upper Canada rivers and creeks and outlined penalties for taking salmon by use of nets or fishing weirs. The Act, however, did not prevent taking salmon with a spear or hook and line.¹⁸⁴

In October of 1810, William Claus, Deputy Superintendent General of Indian Affairs, met with the Mississaugas at the River Credit. Chief Quenepenon of the 12 Mile Creek Indians expressed their satisfaction with the amount of goods received for a land purchase five years earlier, “but you tell us that our good Father was not satisfied, and that he sent us what you gave us yesterday as a further payment of these lands.” The chief then raised the matter of the fisheries and trespass by whites:

Father. **We must now speak to you about our River, and the fish.** You promised before to try and help us, but the white People will come here.... They make us drunk and then cheat us of our fish. You have told us often that we should take care of our fisheries and to look at our Women and Children. **It was you who advised us to reserve our Rivers for the support of our Women and Children.** When we complained to you about the whites, you told us if they would not pay us, to turn them away,....

Father We wish you to help us and prevent them from fishing. We will kill the fish and sell them to the whites, we have told them so, but they do not mind us. We are strong enough to drive them away, but we do not wish to hurt any of our Father’s people; but if they persist we must take care of our property and strike them.

¹⁸³ Samuel Wilmot, Surveyor, to Chewett & Ridout, Acting Surveyor General, December 28, 1809 [Doc. 109]. AO RG 1-2-2 Vol. 63 Reel MS 7443.

¹⁸⁴ *An Act for the Preservation of Salmon*, c. 12, in *A Collection of the Acts Passed in the Parliament of Great Britain, Particularly Applying to the Province of Upper Canada, and of such Ordinances of the Late Province of Quebec, as Have Force of Law Therein* (York: R. C. Horne, 1818), assented to on March 10, 1807 [Doc. 108].

Father **We wish you to prevent mischief which will be the consequence if they do not leave our River.....**

The Deputy Superintendent [*sic*] General's Answer

...

Children I shall communicate your thanks to Lieut. Governor Gore for the additional Goods given to you by the King your Father for the Land purchased five Years ago. I shall also lay before him your complaint about the White People taking your Fish. I have seen with sorrow the manner in which you have been wrong'd of your fish, which if you disposed of properly would make you very comfortable, but you allow yourselves to be imposed upon, and tempted with Liquor, and when they get you drunk, rob you of your fish. **I still advise you not to use personal violence, and I repeat to you that if you are not pleased that the White People should fish and they persist, that you have a right to cut their Boats and destroy their Liquor—they have no right to go into your Country if you do not wish it.** I shall lay the whole of the business before Lieut. Governor Gore, who will do every thing in his power to assist you.¹⁸⁵ [emphasis added]

In 1816, a Naval Establishment Survey was carried out on Lake Ontario. Within a section discussing Lake Ontario towns and waterways, there is mention of the salmon fishery on the Humber River and the Credit River:

The River Humber is one of the most considerable on Lake Ontario but has not been examined, and very little information could be gained of it. There is a good salmon Fishery at its entrance as well as the River Credit to which the Indians resort in great numbers whilst the season lasts.¹⁸⁶

¹⁸⁵ "Proceedings of a meeting with the Missisaugues at the R. Credit," October 3, 1810 [Doc. 110]. LAC RG 10 Vol. 27 pp. 16143-16155 Reel C-11007.

¹⁸⁶ "Observations Relative to the defence of the Lake Frontier," ca. 1816 [Doc. 112]. LAC MG 11 Series Q Vol. 141 Pt. 1 Reel C-11924.

In July of 1816, an Admiralty official corresponded at length with Henry Goulburn, Secretary of State, in regard to points of interest for defence purposes and a survey of Lakes Huron and Ontario. The report briefly touched upon the importance of the salmon fishing at the Humber and Credit Rivers, “which has been taken advantage of by subjects of the United States.”¹⁸⁷

In late October 1818, Malcolm McGregor, Clatterford, Isle Wight, wrote to the Secretary of State, submitting observations about the Indians living on a reserve on the River Credit. McGregor pointed out that the reserve land was not a grant to the Indians, but part of their Aboriginal territory. He reported that the Mississaugas retained ownership of the Credit riverbanks and fishery, but stated that possession proved nominal, “as the River has been constantly and at pleasure, encroached upon and plunder’d [*sic*] of its fish by the whites/Canadians, as well as, and what is more to be regretted, People from the United States.”¹⁸⁸

Military Grant

In March of 1812, Thomas Ridout submitted a report to Isaac Brock, Major General and President of Upper Canada, concerning a petition of William Bates, who received 500 acres of land as a military claimant. The Twelve Mile Creek passed diagonally through a portion of his land in the 2nd Concession South of Dundas Sheet. Ridout explained that in accordance with the Mississaugas 1806 cession of land, “they received to themselves, the waters of the aforesaid Twelve Mile Creek, throughout the said second concession, together with the low lands or flats on each side thereof.” The result was a reduction in the acreage allotted to Bates in the 2nd Concession.¹⁸⁹

Further Land Cessions

At the end of October 1818, Deputy Superintendent General William Claus met with the chiefs of the Mississaugas of the Credit. Claus discussed purchasing what he believed were their remaining lands in exchange for “goods yearly to cover your Women & Children.”¹⁹⁰ The council reconvened on the morning of the 28th of October, at which time Adjutant, speaking on behalf of the assembled chiefs, asked Deputy Superintendent Claus if the British wanted all of the

¹⁸⁷ J. W. Croker, Admiralty Office, to Henry Goulburn, July 6, 1816 [Doc. 113]. LAC MG 11 Q Series Vol. 141 Pt. 1 Reel C-11924.

¹⁸⁸ Malcolm McGregor, Clatterford, Isle Wight, to Henry Goulburn, Under Secretary of State, October 25, 1818 [Doc. 114]. LAC MG 11 Q Series Vol. 324 Pt. 2 Reel C-10763.

¹⁸⁹ Thomas Ridout, Surveyor General, to Isaac Brock, President Administering the Government of Upper Canada, March 18, 1812 [Doc. 111]. LAC RG 5 A1 Vol. 15 Reel C-4507.

¹⁹⁰ “Minutes of the Proceedings of a Council held at the Rivière au Credit,” October 27-29, 1818 [Doc. 115]. LAC RG 10 Vol. 790 pp. 7025-7028 Reel C-13499.

Mississaugas country. Claus replied that his directions were that the present purchase was to begin where the last purchase ended.

Chief Adjutant, on behalf of the Mississaugas, requested “**the little ground at the Mouths of the Rivers**, to the line where you now begin ... it is but small, & we will not have it long, it is all we have to live upon.” [emphasis added] The Deputy Superintendent General then pointed out that Mississaugas land on the 12 and 16 Mile Creeks extended no higher than the Rapids.¹⁹¹ On October 28, 1818, the Mississaugas of the Credit agreed to cede 648,000 acres of land north-west of Toronto (bounded on the east by the townships of Etobicoke, Vaughan, and King) to the Crown for an annual cash payment of five hundred and twenty-two pounds and ten shillings (£522.10).¹⁹²

In May of 1819, Deputy Superintendent General William Claus sent a letter to Peregrine Maitland, Lieutenant Governor of Upper Canada, reporting on the situation and extent of land on the banks of the Credit River and the number of Indians who settled on that land. Claus described the reserves and recommended against depriving the Mississaugas, who viewed the land at the River Credit as ancestral lands and depended on the location for its salmon fishery:

The Messessagas [*sic*] are a wandering nation, and do not, like many others, settle themselves in Villages, and but a small Number apply themselves to the cultivation of Corn, Beans, or Potatoes, depending on the produce of the Gun, and of the Spear, for their Support; hence they acquire an extensive range of country, the different parts of which they resort to at the proper Season, for game or for fish. For the latter purpose they resort in Numbers to the River Credit, in the Spring and Fall of the year at which times the Salmon is plenty, when not less than Two hundred and eight resort to it....

There is no tract in the Neighbourhood on which they could be so well provided for, for with the exception of a much smaller Reservation on the Sixteen, and Twelve Mile Creeks than that on the River Credit, they have surrendered the whole of their Lands to the Crown.¹⁹³

¹⁹¹ “Minutes of the Proceedings of a Council held at the Rivière au Credit,” October 27-29, 1818 [Doc. 115]. LAC RG 10 Vol. 790 pp. 7025-7028 Reel C-13499.

¹⁹² Surrender No. 19 [Ajetance Purchase], October 28, 1818, in Canada, *Indian Treaties and Surrenders*, Vol. I, p. 35 [Doc. 116].

¹⁹³ William Claus, Deputy Superintendent General of Indian Affairs, to P. Maitland, Lieutenant Governor of Upper Canada, May 1, 1819 [Doc. 117]. LAC MG 11 CO 42/361 Reel B-300 folios 203-205.

On May 18, 1819, a Memorandum to Council advised that the Mississaugas Indians should not be induced to surrender their reserve on the River Credit so long “as they resort to the fishing on that stream for their support.”¹⁹⁴

Mississaugas of the Credit, Surrenders Nos. 22 and 23, 1820

According to Treaty No. 14, the Mississaugas of River Credit reserved a tract of land extending one mile on either side of the River Credit, as well as a tract on Twelve Mile Creek and one on Sixteen Mile Creek.¹⁹⁵

In February 1820, William Claus met with the Mississaugas in council in the presence of Superintendent James Givens, several military men, the hospital surgeon, the Secretary of the Province, a secretary and an interpreter from the Indian Department. The minutes of proceedings indicated that Givens had informed the assembly of the purpose of the council at some unspecified time, and that discussion had already taken place. Claus addressed the council, noting the distress and poverty of the women and children, and then informing the Mississaugas that he had been instructed to propose that they surrender their reserved tracts to the Crown for the relief of their misery. Claus then stated:

... It appears that you have cheerfully come into the views of your Father, by surrendering to the Crown this day ... in furtherance of this intention, & in order to meet your wishes, I am directed by your Father to assure you that the whole of the proceeds of this surrender ... [except for proceeds from Block E, along Dundas Street] ... shall be applied towards educating your Children & instructing yourselves in the principles of the Christian Religion....¹⁹⁶

Another version of Claus’s statements was recalled ten years later by Chief Joseph Sawyer (Nawahjegezhegwabe, son of Chief Wahbanosay), a signatory of the 1806 Head of the Lake Purchase. Chief Sawyer stated:

Several years ago we owned land on the twelve mile creek, the sixteen, and the Credit. **On these we had good hunting and fishing and we did not mean to sell the land but to keep it for**

¹⁹⁴ William Dummer Powell, Executive Council, to Peregrine Maitland, Lieutenant Governor, Upper Canada, May 18, 1819 [Doc. 118]. LAC CO 42/362 Reel B-300 folios 206-207.

¹⁹⁵ Surrender No. 14, September 5, 1806, in Canada, *Indian Treaties and Surrenders ...*, Vol. I, pp. 36-40 [Doc. 105].

¹⁹⁶ “Minutes of a Council held with the Mississague Nation of Indians at the Garrison of York ...,” February 28, 1820 [Doc. 121]. LAC MG 19 F1 Vol. 12 Reel C-1480.

our children for ever. Our great father (by Col. Claus) went to us and said, the white people are getting thick around you and we are afraid they or the Yankees will cheat you out of your land. You had better put it into the hands of your very great father the King to keep for you till you want to settle, and he will appropriate it for your good & he will take good care of it, and will take you under his wing, and keep you under his arm, & give you schools & build houses for you when you want to settle. Some of these words were thought good, but we did not like to give up all our lands as some were afraid that our great father would keep our land. But our great father had always been very good to us, & we believed all his words & always had great confidence in him so we said “Yes”, keep our land for us. ...¹⁹⁷ [emphasis added]

According to the written text of the surrender, the Mississaugas surrendered a tract of about 4,000 acres east of the River Credit, referred to as Block D, and a second tract of about 2,400 acres west of the river, designated Block F. Two additional tracts were taken at the same time: Block B, about 1,120 acres on Sixteen Mile Creek; and Block G, about 1,420 acres on Twelve Mile Creek. This transaction, known as Surrender No. 22, reserved a 200-acre block for a Mississaugas village site.¹⁹⁸ On the same day, a second surrender (No. 23) purportedly yielded up Block E, a portion of the original reserve on the River Credit containing about 2,000 acres, including all the woods and waters, for the sum of £50 Province Currency.¹⁹⁹

In June 1820, an extract of a letter indicates that Lieutenant Governor Maitland may have corresponded with Lord Bathurst about religious and civil instruction for various Indian groups. At one point he discussed usage of the Mississaugas reserve land and stated they were prepared to:

... resign to H. M. all their lands on the River Credit, and on two other small streams running into Lake Ontario, amounting together to about 20,000 acres. The situation of these Lands, surrounded by our settlements and extending along the banks of streams render them highly valuable.²⁰⁰

¹⁹⁷ Joseph Sawyer and John Jones, on behalf of the Mississaugas Indians settled at the River Credit, to Sir John Colborne, Lieutenant Governor of Upper Canada, April 3, 1829 [Doc. 128]. LAC RG 10 Vol. 5 Reel C-10997.

¹⁹⁸ Surrender No. 22, February 28, 1820, in Canada, *Indian Treaties and Surrenders ...*, Vol. I, pp. 50-53 [Doc. 119].

¹⁹⁹ Surrender No. 23, February 28, 1820, in Canada, *Indian Treaties and Surrenders ...*, Vol. I, pp. 53-54 [Doc. 120].

²⁰⁰ Sir P. Maitland to the Earl of Bathurst, June 1820 [Doc. 122]. LAC MG 11 Q Series Vol. 328 Pt. 1 Reel C-10764.

Chapter Five: Mississaugas efforts to maintain Traditional Rights and Remaining Lands 1821-1855

Fisheries protection

In 1821, the Province of Canada issued legislation entitled *An Act to repeal the laws now in force relative to the preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light* (Chap. 10, 2nd George IV, A.D. 1821). Section VIII of the Act stipulated that nothing in the Act “shall extend or be construed to extend to prevent the Indians fishing as heretofore, when and where they please, except within one hundred yards of a Mill or Mill-Dam, by fire or torch light.”²⁰¹

Petitions from the Mississaugas of the Credit

In mid-November 1825, the Mississaugas of the River Credit petitioned for exclusive fishing rights within their reserve in order for their commercial fisheries to succeed and support their community:

We have always considered ourselves the owners of this River and fishery and have been enabled in a measure to reap some benefit of the said fishery....

Wherefore we your petitioners humbly pray your Excellency may be pleased to secure the said fishery unto us, and to stop all white people from fishing on the said river, so far as our reserve extends, that is to say, from the mouth of the river to Mr. Racy’s line.²⁰² [emphasis added]

Four years later, on January 31, 1829, James Ajetance, Peter Jones, Joseph Sawyer, John Jones, and 49 other Mississaugas of the River Credit sent a petition to the House of Assembly of Upper Canada. These petitioners described themselves as a remnant of the great Indian nation who inhabited the country in which the British now lived. They petitioners pointed out that they had “sold a

²⁰¹ *An Act to repeal the laws now in force relative to the preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light*, Revised Statutes of Upper Canada 1821, c. 10, assented to on April 14, 1821 [Doc. 123].

²⁰² Province of Upper Canada, “To our Great Father Sir Peregrine Maitland, K.C.B. Lieutenant Governor of the Province of Upper Canada, etc., The Petition of the Messisagua Nation of Indians residing on the River Credit,” November 16, 1825, in the *Journal of the House of Assembly of Upper Canada*, Second Session of the Ninth Provincial Parliament of Upper Canada, Session 1825-1826 (York: W. L. MacKenzie, 1826) [Doc. 124].

great deal of land to our great father, the King, for very little, and we became poorer and poorer. We reserved all the hunting and fishing ground.” The Mississaugas recounted that they kept 12 Mile Creek, 16 Mile Creek, and the reserve of one mile on each side of the River Credit. They stated that the first two “are gone from us,” and insisted they wanted to keep the Credit Reserve. They requested protection of their fisheries in these waters:

Now, Father, once all the fish in those Rivers and those Lakes, and all the deer in these woods, were ours; but your red Children only ask you to cause laws to be made to keep these bad men away from our fishery at the River Credit, from Mr. Racey’s line to the mouth of the River; and along the Lake shore one mile on each side of the River, as far as our Land extends – and to punish those who attempt to fish here. We will not fish on Saturday night, Sunday night, and Sunday but will let the fish pass up to our White Brothers up the River.²⁰³

Subsequently the petition was referred to a Select Committee which submitted a February 2, 1829, report to the Commons House of Assembly. The Select Committee made note of the September 6, 1806, land surrender which reserved to the Indians the sole right “of the fisheries in the Twelve Mile Creek, the Sixteen Mile Creek, the river Credit and the river Etobicoke ... The said right of fishery and reserves extending from the Lake Ontario up the said creeks and river Credit.”²⁰⁴

The Select Committee further noted that on February 28, 1820, the Mississaugas surrendered a tract of land measuring about 2,000 acres, leaving about 4,000 acres in the Credit River Reserve, “whereon the right of fishing thereupon, remains to the said Mississaga [*sic*] people and their posterity, solely and rightfully forever.” The Select Committee recommended passage of a law protecting the Mississaugas Indians living on the Credit River from non-Indian fishermen.²⁰⁵

²⁰³ James Ajetance, Peter Jones, Joseph Sawyer, John Jones, and 49 other Mississaugas of the River Credit to the House of Assembly of Upper Canada, January 31, 1829 [Doc. 125]. LAC RG 10 Vol. 1011 Reel T-1456.

²⁰⁴ Province of Upper Canada, “Report of the Select Committee to which was referred the Petition of the Indians residing on the river Credit,” in *Appendix to Journal of the House of Assembly of Upper Canada, 1829* (Toronto: F. Collins, 1829), Appendix 17, No. 32 [Doc. 126].

²⁰⁵ Province of Upper Canada, “Report of the Select Committee to which was referred the Petition of the Indians residing on the river Credit,” in *Appendix to Journal of the House of Assembly of Upper Canada, 1829*, Appendix 17, No. 32 [Doc. 126].

Salmon Fishery

On March 20, 1829, the Province of Upper Canada passed *An Act, the better to protect the Mississauga Tribes living on the Indian Reserve of the River Credit, in their exclusive right of Fishing and Hunting therein*. The Act identified the Credit Reserve boundaries and prohibited people from fishing on the reserve without the consent of at least three Mississaugas principal men or chiefs. The Act identified the Mississaugas fishery in the following way:

That the said right to the sole fishery as aforesaid, shall be held and taken to extend through the entire stream from Racey's line down its course, to its mouth, and from thence one mile into Lake Ontario, occupying such a space thereon as may be supposed to be included in the segment of a circle, having the middle of the said River at its mouth as the centre, and the distance thence to the Eastern Boundary where it touches the shore as its Radius, whereby to describe the said segment from the East to West Boundaries thereof on the shore as aforesaid.²⁰⁶

Lise Hansen remarked with some perplexity that this 1829 legislation passed by the Government of Upper Canada protected a Mississaugas exclusive fishery, "which appears to have been surrendered nine years earlier by the group benefiting from the legislation."²⁰⁷

Two weeks later, Chief Joseph Sawyer submitted a Statement of the Credit River Mississaugas to Lieutenant Governor Colborne. They thanked Colborne for the "law to be made to protect us in our fishing" while also raising the issue that "we did not mean to sell the land" at 12 and 16 Mile Creeks and the Credit. The Mississaugas recalled that Colonel Claus had warned them that settlers or Americans could cheat them out of their land. The Indians indicated that they believed the land surrendered was being held by the Crown for their future needs; however, much of the land had been sold, which they sorely regretted.²⁰⁸

Mississaugas of the Credit Band Council minutes dating between 1834 and 1848 contain a description of the boundaries of the original territory of the River Credit Indians:

²⁰⁶ *An Act, the better to protect the Mississauga Tribes living on the Indian Reserve of the River Credit, in their exclusive right of Fishing and Hunting therein*, Statutes of the Province of Upper Canada 1829, c. III, assented to on March 20, 1829 [Doc. 127].

²⁰⁷ Lise C. Hansen, "Treaty Fishing Rights and the Development of Fisheries Legislation in Ontario: A Primer," Ontario Native Affairs Secretariat, May 1991, p. 3 [Doc. 153].

²⁰⁸ Joseph Sawyer and John Jones, on behalf of the Mississaugas Indians settled at the River Credit, to Sir John Colborne, Lieutenant Governor of Upper Canada, April 3, 1829 [Doc. 128]. LAC RG 10 Vol. 5 Reel C-10997.

The boundaries of the original Territory of the River Credit Indians were as follows: Commencing at the mouth of the River Rouge. Thence north to the source of the said river. Thence westerly along the dividing ridges which Separate the waters of Lakes Ontario and Simcoe & Huron. Thence to the source of the Grand River or Ouse. Thence southerly along the dividing ridges between waters of the Grand River and River Thames to Long Point on Lake Erie. Then easterly along Lake Erie, Niagara River, and Lake Ontario to the place of beginning.²⁰⁹

In 1835, *An Act to revive and continue an Act passed in the Tenth year of His late Majesty's Reign, entitled, "An Act the better to protect the Mississauga Tribes living on the Indian Reserve of the River Credit, in their exclusive right of Fishing and Hunting therein"* extended protection of the Mississaugas hunting and fishing rights on the Credit River for another four years.²¹⁰

A September 25, 1837 Mississaugas of the Credit council minute recorded eight resolutions. The fourth resolution declared that Chief Peter Jones would be appointed legal agent and was directed to determine what reserves had been established by the Credit Indians on various waterways:

Resolved that our beloved Brother and relative the Rev. Peter Jones be authorized to act as our lawful Agent to transact our Affairs with the Colonial and Home Government.

Especially to ascertain what Reserves have been made by our forefathers at the different Rivers, creeks & points, along the shores of Lake Ontario.²¹¹

In October 1837, the Indians of the Credit River submitted a petition to Queen Victoria. The petitioners discussed the River Credit Reserve and noted that

²⁰⁹ Description of boundaries "of the original territory of the River Credit Indians," circa 1834 [Doc. 129]. LAC RG 10 Vol. 1011 p. 2 Reel T-1456. Note: The approximate date is based on the placement of the entry at the start of the Council Minutes book which has a date range of 1834-1848. However, it could be as late as 1848 since it is very similar to the description provided by Chiefs Joseph Sawyer and Peter Jones on December 5, 1844.

²¹⁰ *An Act to revive and continue an Act passed in the Tenth year of His late Majesty's Reign, entitled, "An Act the better to protect the Mississauga Tribes living on the Indian Reserve of the River Credit, in their exclusive right of Fishing and Hunting therein,"* Statutes of the Province of Upper Canada 1835, c. 27, assented to on April 16, 1835 [Doc. 130].

²¹¹ Minute of Council signed by Chiefs Joseph Sawyer and Peter Jones, September 25, 1837 [Doc. 131]. LAC RG 10 Vol. 1011 Reel T-1456.

Parliament had acknowledged the tract to be theirs and forbade the whites from disturbing their fisheries.²¹²

Five years later, Peter Jones sent a letter to Edward L. Bull and informed him that the Credit Indians were prepared to sell the Credit Reserve including the saw mills, water privilege, houses and improvements, and stock in the Credit Harbour Company. Jones then stated that the Indians wanted “our right to the Salmon Fishery secured to us by law.”²¹³

On December 5, 1844, Chiefs Joseph Sawyer and Peter Jones wrote to the Governor General on behalf of the Mississaugas of the Credit. The two chiefs described their traditional lands from time immemorial as “extended as far down as the river Rouge thence up the said river Rouge to its source thence Westerly along the dividing ridge between Lakes Huron and Ontario to the head waters of the river Thames thence southerly to Long point on Lake Erie, thence down Lake Erie, Niagara river and Lake Ontario to the place of beginning.”²¹⁴

At one point Chiefs Sawyer and Jones referred to the last large-scale sale of their lands (1818 Ajetance Purchase) and Mississaugas of the Credit concerns about removing their opportunity to hunt and fish. They claimed that the government told them they would still have their traditional harvesting rights. The chiefs declared that they were being driven off the land by settlers when they tried to hunt or fish:

At the last bargain and sale of our lands we objected to selling all our lands on account that we would have no place to hunt and fish. The persons making the bargain on behalf of the Government, stated that their people were tillers of the ground and no hunters, that they wanted lands to till and not to game and fish; the game and the fish should still be the property of the Indians. With the above assurance we consented and the government settled an annuity of five hundred and twenty-two pounds ten shillings currency per annum upon our Tribe, and now in many parts of our country our people are driven away by the white people for taking what we consider is our own.²¹⁵

²¹² Mississauga Tribe of the Chippewa Nation of Indians of the River Credit, to Queen Victoria, Petition, October 4, 1837 [Doc. 132]. LAC RG 10 Vol. 1011 Reel T-1456.

²¹³ Peter Jones to Edwd. L. Bull, October 17, 1842 [Doc. 133]. LAC RG 10 Vol. 1011 Reel T-1456.

²¹⁴ Joseph Sawyer and Peter Jones, Chiefs of the River Credit Indians, to the Governor General, December 5, 1844 [Doc. 134]. LAC RG10 Vol. 1011 pp. 105-109 Reel T-1456.

²¹⁵ Joseph Sawyer and Peter Jones, Chiefs of the River Credit Indians, to the Governor General, December 5, 1844 [Doc. 134]. LAC RG 10 Vol. 1011 pp. 105-109 Reel T-1456.

One week later, Reverend Playter corresponded with J. M. Higginson, Civil Secretary, Indian Department, and listed a number of complaints from the Indians of the Province of Canada. Among their complaints, the Indians stated that they had exchanged large areas of land for ones with narrow limits, land sale conditions had not been met by the government, and restrictions had been imposed upon Indian freedom to hunt and fish.²¹⁶

On June 8, 1847, Chiefs Joseph Sawyer and Peter Jones of the Mississaugas of the Credit forwarded a statement to T.G. Anderson, "claiming certain Tracts of land which to the best of their knowledge and belief have never been surrendered to the Crown; and therefore remain their property." Chief Peter Jones added that though they had no written documents in their possession to show that these lands were theirs, they believed that the Crown would nevertheless respect their claims to the following areas:

- 1st The well known Reserve at the River Credit.
- 2nd The Reserve at the 16 Mile Creek now called Oakville.
- 3rd The Reserve at the 12 Mile Creek now called Bronte.
- 4th The Burlington Bay Beach through which the Canal to the Bay passes and is about five miles in length.
- 5th The Burlington Heights near to Sir Allan MacNabs House containing about 200 acres of land.
- 6th A small Reserve near the Town of Niagara called Mississaga Point.
- 7th The Tract of land at the Mouth of the River Rouge.

The Chiefs of the said Credit Indians, beg leave to state that their Forefathers have always been careful to teach their Children to consider these Reserves as their own, having been removed by them at the time they ceded their Territories to the Crown of Great Britain and that they were given to understand by the Officers of Government who treated with them that the above mentioned Tracts of land should be reserved for the use of themselves and descendants forever as hunting and camping grounds.²¹⁷

²¹⁶ Reverend G. Playter, Methodist Missionary, to J. M. Higginson, Civil Secretary, Indian Department, December 16, 1844 [Doc. 135]. LAC RG 10 Vol. 144 No. 272 Reel C-11491.

²¹⁷ "Statement of the Mississaga Indians of the River Credit; claiming certain tracts of land which to the best of their knowledge and belief have never been surrendered to the Crown; and therefore remain their property," June 8, 1847 [Doc. 137]. LAC RG 10 Vol. 182 Reel C-11509. This statement was enclosed in a letter from Chiefs Joseph Sawyer and Peter Jones to T. G. Anderson, Superintendent of Indian Affairs, June 8, 1847 [Doc. 136]. LAC RG 10 Vol. 182 Reel C-11509.

Three years later, Chief Peter Jones wrote to T. G. Anderson, referring to the June 8, 1847, statement and requesting that the matter be brought to a close as soon as possible. Jones then put forward an additional claim for land that he described as “Long Point and the Island annexed with it, in Lake Erie. That Peninsula and Island were Reserved by our fathers as hunting and fishing grounds.” He concluded by asking to be present when an investigation into the papers associated with the claims took place.²¹⁸

In February of 1855, Peter Jones, Chief of the New Credit, wrote to S. Y. Chesley, Indian Department, in regard to the claim of the New Credit Indians to reserved lands on the River Credit. In this letter, Chief Jones once again described the traditional territory of the Mississaugas of the Credit:

The said Indians were the original owners of the said territory embraced in the following description, namely commencing at Long Point on Lake Erie, thence eastward along the shore of the lake to Niagara River. Then down the river to Lake Ontario, then northward along the shore of the lake to the River Rouge east of Toronto, then up that river to the dividing ridges between lakes [sic] Ontario and Simcoe, then along the dividing ridges to the head waters of the River Thames, then southward to Long Point, the place of beginning. This vast tract of land now forms the garden of Canada West.²¹⁹

In 1866, James Cockburn, Solicitor General, Upper Canada, raised the matter of a claim that Indians have exclusive fishing rights, and stated an opinion “that they have no other or larger rights over the public waters of this Province than those which belong at Common Law to Her Majesty’s subjects in general.” Cockburn noted an exception might be made in the case of treaties of land cessions that included a clause reserving exclusive rights of fishing to certain Indian tribes. However, he argued that in these cases an Act of Parliament ratifying the reservation of fishing rights was required.²²⁰

²¹⁸ Chief Peter Jones to T. G. Anderson, Superintendent of Indian Affairs, March 30, 1850 [Doc. 139]. LAC RG 10 Vol. 182 Reel C-11509.

²¹⁹ Chief Peter Jones, New Credit, to S. Y. Chesley, Indian Department, February 13, 1855 [Doc. 140]. LAC RG10 Vol. 2357 File 72566-1 Pt. 1 Reel C-11207.

²²⁰ James Cockburn, Solicitor General, Upper Canada, March 8, 1866 [Doc. 142]. LAC RG 13 Vol. 2368 File 9-4/1866 Pt. 1.

Summary

First Nations were generally agreeable to allow other First Nations as well as Europeans to utilize fish resources and travel on waterways within their traditional lands. However, in regard to European land purchases, First Nations demonstrated no inclination to give up or sell the lakes and waterways central to their existence. Victor Lytwyn, historical geographer, argues that land surrenders negotiated with Great Lakes First Nations during the 18th and 19th centuries did not cover the water or aquatic resources.

Early Jesuit records profile the importance of fisheries among the Ojibwa of the Great Lakes. In 1647-48, the Jesuits reported that Algonquian tribes occupying lands north of the Huron Indians lived off hunting and fishing and exercised seasonal subsistence, staying at one place if the fish were plentiful. Donald B. Smith, historian, in his article about the Algonquian (Ojibwa) Indians known as the Mississaugas, argued that by moving into southern areas of Ontario during the 17th century they obtained new hunting and fishing grounds.

Chief George Copway noted that via conquest, the Mississaugas gained control of the easternmost Great Lakes in the late 17th century. The importance of waterways to the Mississaugas people is reflected in early 18th century French records that place the Mississaugas along the shore at the Bay of Quinte, the Humber River, the head of Lake Ontario, and at Matchedash Bay. Within the 1780-1820 study period for this report, the Mississaugas of the Credit used and occupied the north and western shores of Lake Ontario as well as various waterways that flow into the lake. The importance of these waters for Mississaugas transportation and fishing purposes is well-documented.

British officials sought land cessions from the Mississaugas Indians for communication and settlement purposes. There is no evidence that the lakebed of Lake Ontario, within the Mississaugas' traditional land region, was ever surrendered. Extant documents relating to the 1780-1820 land cessions strongly indicate that the Mississaugas of the Credit were averse to surrendering waterways and the Lake Ontario lakeshore. Waterways crucial for salmon spawning or traditional harvesting activities were extremely important as a food source for the Mississaugas. The importance of the fisheries was strongly underlined in 1805 during the Toronto Purchase renewal when Chief Quenepenon insisted to William Claus, Deputy Superintendent General of Indian Affairs, that the old chiefs in particular reserved the fishery of the river. Chief Quenepenon reminded Claus that Colonel Butler in 1787 replied to the Mississaugas' request for the fisheries by stating, "We do not want the water, we want the land."

*Mississaugas of the New Credit
Aboriginal Title Claim*

British recognition of the importance of the waterways and fishing resources to the Mississaugas is exemplified by the passage of various pieces of legislation in the first half of the 19th century, designed to protect Mississaugas rights to the salmon fisheries within traditional waterways.

The Mississaugas of the Credit repeatedly submitted petitions to British officials in which they declared that they had reserved all of their hunting and fishing grounds when they ceded land to the Crown. On a number of occasions the Mississaugas requested protection of fisheries in various waterways within their traditional lands. As late as 1850, Mississaugas chiefs identified various unsurrendered reserves on waterways leading into Lake Ontario, as well as unsurrendered tracts of land on the Lake Ontario lakeshore. The chiefs stressed the importance of these areas for hunting and fishing activities for the Mississaugas and their future descendents.

Aboriginal title related to waterways and certain tracts of land within Mississaugas of the New Credit traditional lands continues to be unsurrendered.