

The McKee Treaty of 1790: British-Aboriginal Diplomacy in the Great Lakes

A thesis submitted to the College of Graduate and Postdoctoral Studies
In partial fulfilment of the requirements for
MASTER OF ARTS
in the Department of History
UNIVERSITY OF SASKATCHEWAN
Saskatoon

by
Daniel Palmer

Copyright © Daniel Palmer, September 2017
All Rights Reserved

Permission to Use

In presenting this thesis/dissertation in partial fulfilment of the requirements for a Postgraduate degree from the University of Saskatchewan, I agree that the Libraries of this University may make it freely available for inspection. I further agree that permission for copying of this thesis/dissertation in any manner, in whole or in part, for scholarly purposes may be granted by the professor or professors who supervised my thesis/dissertation work or, in their absence, by the Head of the Department or the Dean of the College in which my thesis work was done. It is understood that any copying or publication or use of this thesis/dissertation or parts thereof for financial gain shall not be allowed without my written permission. It is also understood that due recognition shall be given to me and to the University of Saskatchewan in any scholarly use which may be made of any material in my thesis/dissertation.

Requests for permission to copy or to make other uses of materials in this thesis/dissertation in whole or part should be addressed to:

Head of the Department of History
HUMFA Administrative Support Services
Room 522, Arts Building
University of Saskatchewan
9 Campus Drive
Saskatoon, Saskatchewan
S7N 5A5

Abstract

On the 19th of May, 1790, the representatives of four First Nations of Detroit and the British Crown signed, each in their own custom, a document ceding 5,440 square kilometers of Aboriginal land to the Crown that spring for £1200 Quebec Currency in goods. Understandings of this treaty in historical scholarship have focused entirely on the written document and a controversy with the Land Board for the District of Hesse. This limited analysis has neglected Aboriginal accounts of the Treaty, rendering a one-sided perspective that represents only part of the story. This thesis is an attempt to complicate what is now known as the McKee Treaty of 1790 by incorporating the perspectives and actions of the Aboriginal signatories. Specifically, I argue that our understanding of the McKee Treaty must extend beyond the confines of the written treaty text that was signed on the 19th of May, 1790. Although the Treaty fulfilled the needs of the colonial Land Board, it also served to strengthen the alliance between the Crown and the Aboriginal Confederacy. Finally, this thesis also demonstrates that the Treaty was a means for both the Crown and Aboriginal peoples to advance their interests against the shared threat of the United States.

Acknowledgements

First and foremost I would like to thank my supervisor, Dr. Kathryn Labelle for all of the support and guidance that she provided throughout the writing of this thesis. It is no exaggeration to say that this thesis could not have been completed without it. I would also like to acknowledge the other members of my thesis committee, Dr. Robert Englebert and Dr. Matthew Neufeld. Their comments and guidance significantly strengthened the final product. My thanks also goes out to Dr. Sarah Nickel who took the time to serve as my external examiner. I would like to thank the History Department at the University of Saskatchewan as a whole for creating a warm and friendly environment so far from home. I would also like to acknowledge the gracious financial support of the History Department and the College of Graduate and Postdoctoral Studies at the University of Saskatchewan which made this research possible.

.

Table of Contents

Permission to Use	i
Abstract	ii
Acknowledgements	iii
Introduction	1
Chapter One: Aboriginal Detroit	26
Chapter Two: The Treaty at Fort Harmer, 1789	49
Chapter Three: The McKee Treaty, 1790	63
Conclusion	85
Appendix	90
Bibliography	101

Introduction

We Demand an Explanation

The Land Board for the District of Hesse was furious when they learned of the Treaty's conclusion. Gathering on the twenty-first of May, the Board, at the behest of members Judge Powell and the merchant William Robertson, penned an official request demanding that Alexander McKee explain himself to them and to His Excellency Lord Dorchester, the Governor General of the Province of Quebec.¹ As the deputy Indian Agent assigned to Detroit, it was Alexander McKee's responsibility as the resident officer of the Indian Department of the War Office to negotiate with Aboriginal peoples on behalf of the Crown. This McKee had done when he sent word to the Land Board that "the cession from ye Indians to the Crown is now completed according to the limit specified" [sic].²

Powell and Robertson had no issue with the creation of a treaty and the surrender of a huge tract of land to the Crown. Indeed, they were partly responsible for its creation. The Land Board for the District of Hesse on which they sat, along with Major Patrick Murray of the 60th Foot, Col. Alexander McKee, and Alexander Grant, Justice of the Peace and Officer of the Provincial Marine, were the body that had decided a land surrender was necessary.³ This group, initially formed two years before, was one of five in the western reaches of the British Province

¹ "Land Board, 28 May, 1790." In *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 11-12.

² "Copy of a letter received from Alexander McKee, Esquire, mentioned in above minute of the Board, 21 May, 1790," in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 9.

³ "Land Board, District of Hesse. 7th December, 1789," in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 6. The Provincial Marine was created to provide a naval presence on the Great Lakes to help support the Army and Government by providing transportation, in addition to possessing a small combat capability on the Great Lakes and Lake Champlain. Independent of the Royal Navy, although it drew the majority of its officers from the Navy's ranks, it was actually a department within the Army, in effect the Army's inland Navy.

of Quebec, responsible for overseeing the settlement of non-Aboriginal peoples on what had been Aboriginal land. The King had decreed that loyalists were to be compensated for their losses because of their support for the Empire, with free grants of land in British colonies—the extent of which depended on the individual’s status.⁴ This meant that land had to be found. In 1783 there were around 30,000 Loyalists in New York City about to be evacuated by the British authorities who were preparing for the surrender of the city in the wake of the Treaty of Paris.⁵ Although many of these ended up in the Province of Nova Scotia, perhaps 1,500 of these New York Loyalists went to the Province of Quebec. And out of these Loyalists a significant number decided to settle on the western frontier of the province, at the end of existing European settlement in the Great Lakes region.⁶ These men and women, along with individuals traveling north overland, represented the first major incursion of European permanent settlement in the region, numbering around 6,000 at the end of the war. Of these, only a few hundred at most, made it to Detroit.⁷

The problem was, the Land Board in Hesse had little to no land to give. All of the territory in the district that was not already occupied by settlers, with official permission or not, belonged to Indigenous peoples and British law required that the Crown first purchase land before settlement could commence. Furthermore, standing British Government policy was that

⁴ The size of the grants depended of family size, and under further orders, military rank for those who had served in the military. For the extent of these grants see; “No. 21. Copy, Circular from Henry Motx to the Board.” January 19, 1790, in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 35.

⁵ Lillian Gates. *Land Policies of Upper Canada*. (Toronto: University of Toronto Press, 1968), 18.

⁶ Gates. *Land Policies of Upper Canada*, 13.

⁷ Alan Taylor, *The Civil War of 1812: American Citizens, British Subjects, Irish Rebels, & Indian Allies*. (New York: Vintage Book, 2011; first published by Alfred A. Knopf, 2010), 23; this statistic appears to exclude the Aboriginal “Loyalists” who settled at the Bay of Quinte and on the Grand River. Maya Jasanoff. *Liberty’s Exiles: American Loyalists in the Revolutionary World*. (New York: Alfred A. Knopf, 2011), 354.

all Aboriginal land had to pass through the Crown before it could pass into private ownership.⁸ This process began with a provision of the Royal Proclamation of 1763 that had been intended to placate Aboriginal peoples and stem the tide of American settlers moving into Aboriginal lands in the interior—an advance that had quickened with the defeat of the French in 1760. Consequently, although the Board may have been local representatives of the Crown, they still had to seek the authority for a surrender and the orders needed to be passed on to the Indian Department’s senior officer in the interior, Alexander McKee. Until such time as a treaty was concluded, they could do nothing to further facilitate settlement.

After months of consultations with Governor General Lord Dorchester, in October of 1789 the Land Board and Indian Agent Alexander McKee, received instructions from Dorchester to secure a land cession. In December 1789 McKee received a formal request from the Land Board that instructed him in the following way:

to procure from the Indians a cession of all that tract of Land commencing at the entrance of the Channel Ecarté on the River St. Clare, running up the main Branch of said channel to the first fork on the South side ——— then a due East line to the River la Tranche, up the River la Tranche to its source, or until it strikes upon the Boundary of the last purchase from the Missasagas, bounded by the waters of the River and Lake St. Clare, Detroit and Lake Erie [*sic*].⁹

⁸ In 1790 the area covered by the McKee Treaty, and all of what is now Southern Ontario, were part of the British Province of Quebec. Although Quebec under British rule had retained its seigneurial system of land tenure, attempts to implement this in the western portion of the province, roughly corresponding to modern Ontario, were abandoned almost immediately after the American Revolution, as the process of making permanent arrangements for American Loyalists was undertaken.

⁹ “Land Board, District of Hesse. 7th December, 1789,” in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 6. The final instruction to the Board were received by the board on 16 October, 1789. They can be found in, “No. 10. Copy of a letter from Lord Dorchester to the Board, 2nd September, ’89. Received 16th October, 1789,” in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 30-31.

This, they felt, was the “extent of country it may be proper to treat for with [the Indigenous peoples], for the present, consistently with their comfort [*sic*]”, a consideration that Dorchester had ordered the Board to consider.¹⁰ It was in response to these instructions that McKee had set off to negotiate a treaty that would surrender the land to the Crown over the winter of 1789/1790.

What Powell and Robertson found so egregious was the nature of the treaty itself. Although McKee felt that it had been “completed according to the limit specified,” Powell and Robertson felt that the inclusion of two small Native reserves along the eastern shore of the Detroit River were completely unacceptable.¹¹ They felt that they would needlessly impair the development of the Detroit River and harm the British interest. Specifically, they argued that the more southerly of the two reserves, commonly known as “the Huron Reserve,” cut off the proposed site of the town that would become Amherstburg from the settled lands opposite the town of Detroit. Alexander McKee countered that, “I found it impracticable to obtain so extensive a Tract without paying some attention to the claims of the Indians [*sic*].”¹² Powell and Robertson rebutted that this was nonsense, labelling the Indigenous peoples hostile, troublesome, and inconvenient to the good British Loyalist settlers of the region.¹³

The other two members of the land board, however, defended Col. McKee against the attacks of these civilian elites. Alexander Grant, the “Senior officer Commanding his Majesty’s vessels on the Upper Lakes,” asserted that “all information or opinions relative to Indian affairs

¹⁰ “Copy of a letter from Lord Dorchester to the Board, 2nd September, ’89. Received 16th October, 1789,” in *Third Report of the Bureau of Archives*, 30.

¹¹ “Copy of a letter received from Alexander McKee, Esquire, mentioned in above minute of the Board, 21 May, 1790,” in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 9; “Land-Board, 22 May, 1790,” in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 9.

¹² Copy of a letter from Alexander McKee, Esquire, D.A. to ye Board, 23 May, 1790, in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 10.

¹³ “Land Board, 28 May, 1790”, in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 11.

should proceed from the Deputy [Indian] Agent.”¹⁴ Maj. Murray concurred with Grant entirely. The reality of life was that it was the Indigenous peoples, and not settlers, who held the balance of power in the Great Lakes Region. As Murray knew well, the British were too weak militarily to defend what remained of their North American Colonies without Indigenous allies. Indigenous peoples were central to the planned defense of the province and this was the Indian Agent’s job. Going further still, Murray was “convinced that His Excellency’s Instruction have been executed in the most advantageous manner for the Crown.”¹⁵

Naturally, McKee agreed with the assessments of these two officers who had come to his defense.¹⁶ He felt that he had carried out his duties for the Crown, and had achieved a result that fulfilled the requirements of the Land Board, while also securing the Crown’s relationships with the peoples of Detroit—relationships that were essential for the defense of the weakly garrisoned British Province of Quebec.

Forgotten Voices

The exchange of documents between the Land Board for the District of Hess and Lord Dorchester about the treaty from both before and after its conclusion have formed the basis of much of the work that has considered the McKee Treaty to date. This is natural enough, as they form the bulk of the written record that relates to this treaty, which like many other Aboriginal-newcomer treaties is poorly documented in the written record. The unfortunate side effect of this is that only British perspectives of the treaty have seen any significant examination to date. This has meant that there have been voices missing from this discussion of the treaty. For, if there

¹⁴ “Land Board, 18 June, 1790,” in in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 13; “Land Board, 28 May, 1790,” in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 12.

¹⁵ “*Land Board, 28 May, 1790,*” in *Third Report of the Bureau of Archives*, 12.

¹⁶ “Copy of a letter from Alexander McKee,” May 23, 1790, in *Third Report of the Bureau of Archives*, 10.

were at least two distinct British interests, they still only represent the perspectives of one of five signatory nations to this treaty. The reality is that although the voices of the members of the Land Board for the District of Hesse and the British Administration have dominated the subsequent discussion of this treaty, they did not dominate the negotiations themselves. The Crown appointed Alexander McKee to negotiate on its behalf, but facing him, there were thirty-five chiefs from the Potawatomi, Wyandot, Ojibwe, and Odawa nations of Detroit that signed the Treaty at the conclusion of the negotiations.¹⁷

A long ignored silent majority, the Aboriginal signatories of this treaty have often been placed in passive roles by scholars who have failed to consider their side of the story. The simple fact that they were parties to the treaty, and the most numerous at the conclusion of the treaty makes their perspectives and understandings worthy of examination in and of itself. Yet, the incorporation of the understandings of Aboriginal peoples is even more crucial given the political realities of the spring of 1790. Given the eventual non-Aboriginal victory in the struggle for the Great Lakes, it is easy to misunderstand the complex cultural and political interactions that produced the McKee Treaty. In the spring of 1790 however, the so called Sixty Years War for the Great Lakes was far from over.¹⁸ This struggle would only turn decidedly in favour of the United States four years later at the Battle of Fallen Timbers in August, 1794.

In the spring of 1790 the British and the Aboriginal peoples of the Confederacy were still partners in a relatively equal relationship based on mutual necessity. At this time the Aboriginal

¹⁷ There were thirty-five Indigenous signatories of this treaty, whose doodem images appear on the document signed on 19 May, 1790. The Ojibwe chief Nangie's name is excluded from transcripts of this treaty made from a copy that was included in the Records of the Land Board for the District of Hesse on 22 June, 1790 by the board's secretary Lt. T Smith. This error is present in the most frequently used transcript of the treaty, that included in *Indian Treaties and Surrenders*, Vol. 1 printed for the Government of Canada.

¹⁸ The Sixty Years War for the Great Lakes refers to the period from 1754 to 1814 of nearly constant warfare between various Aboriginal and non-Aboriginal peoples for control of the Great Lakes region. David Curtis Skaggs & Larry L. Nelson, Eds. *The Sixty Years' War for the Great Lakes, 1754-1814*. (East Lansing, MI: Michigan State University Press, 2001).

peoples of the Western Confederacy, including those at Detroit remained a military force to be reckoned with, posing a significant threat to anyone attempting to encroach on their lands. They clearly demonstrated this through the 1780s and the early 1790s as they continued to actively fight the United States and encroaching American settler in the interior, in what has historically been referred to as the Northwest Indian War, or Little Turtle's War. In 1790 and then again the following year, the combined forces of the peoples of the Western Confederacy defeated two successive American armies sent against them, inflicting two of the greatest defeats the United States Army has ever suffered. The second, the Battle of the Wabash remains the largest battle ever won by the Aboriginal peoples of North America, and was "proportionally the biggest military disaster the United States ever suffered".¹⁹ The result was that, throughout this period, the United States was unable to enforce their will throughout most of the territory they claimed in the *pays d'en haut* as a result of their successful revolt against the British Crown, which remained instead in Aboriginal hands.

The military strength of the Western Confederacy and its constituent peoples in this period was none the less reliant upon the British, who supplied various trade goods, and in particular firearms and ammunition necessary to continue the fight.²⁰ This was offset in turn by the military reality of the post-Revolutionary War period in British North America. The downsizing of British forces at the conclusion of the conflict meant that the Crown lacked the troops necessary to defend its remaining North American colonies from the threat posed by the newly formed United States. Instead, they relied on the military strength of their Aboriginal allies for the defense of the remaining colonies. The result a state of mutual dependence in which

¹⁹ Colin G. Calloway. *The Victory With No Name: The Native American Defeat of the First American Army*. (Oxford: Oxford University Press, 2014), 5.

²⁰ In addition to the Fur Trade, the British also provided arms, ammunition, and provisions to allied peoples in the Great Lakes as presents; Larry Nelson. *A Man of Distinction among Them: Alexander McKee and the Ohio Country Frontier, 1754-1799*. (Kent, OH: The Kent State University Press, 1999), 157.

neither side could survive as they were without the other. With neither side possessing the power to subsist without the other, they relied instead on mutual cooperation. It was in this context that these parties concluded the agreement that has since become known as the McKee Treaty of 1790.

There have been a number of theoretical frameworks that have been proposed by scholars to explain the nature of Aboriginal-European interactions in this period. Perhaps the most influential of these has been the concept of the “middle ground” developed by Richard White, and first introduced twenty-six years ago in his seminal work on the Great Lakes region.²¹ A metaphor for a process of cultural mediation between cultures, as well as more specifically the *pays d’en haut*, he describes which is a product of its place and time, the concept of the middle ground emphasises the creation of a new order. Because no individual party had the power to control their neighbours in the Great Lakes, each party was forced to accommodate the other parties, and in the process they together forged new meanings and understandings which were often based on “creative misunderstandings” between the parties.²² Thus what emerged was a new world that was neither truly Aboriginal nor truly Western, but a hybrid world containing both western and Aboriginal features.

The realities at Detroit in the spring of 1790 were rather different from the features of the middle ground as described by White. Despite the long period of contact in the Great Lakes region, the peoples at Detroit remained independent and in a world in which Aboriginal peoples remained firmly in control. In the spring of 1790 the Aboriginal peoples of Detroit were not reliant on an imported non-Aboriginal imperial political “glue” to hold their communities and

²¹ For the clearest, and most concise overview of the concept of a “middle ground” see pages XII-XIII of the preface to the twentieth anniversary edition of this book; Richard White. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*. (New York: Cambridge University Press, 2011. First published 1991), XII-XIII.

²² *Ibid.*

alliances together.²³ Indeed, in the years between the American Revolution and the signing of the McKee Treaty, the Aboriginal peoples of the Western Confederacy had bound together in a strong Aboriginal entity that actively resisted direct non-Aboriginal intervention in its affairs.²⁴ This is in turn reflective of what Kathleen DuVal has described as the “native ground”, in which Aboriginal peoples maintained their independence from European newcomers, while incorporating them into their distinctly Aboriginal world.²⁵ The concept of a “native ground” does not imply a timeless Aboriginal world, but rather one in which change was directed by Aboriginal peoples themselves and not by external coercive forces.²⁶ Neither of these completely fits the messy situation around Detroit in 1790, which was effectively divided into two worlds, one Aboriginal and one European, rather than one mediated whole. The region as a whole however, continued to remain a predominantly Aboriginal space, defined on Aboriginal terms.

Land Acquisition in The Detroit Borderlands

There had been a permanent non-Indigenous presence at Detroit for almost one hundred years at the time of the McKee Treaty. Initially a French Fur Trade depot, after the British Conquest of Quebec in 1760, British settlers joined the French. The English speaking population in the Detroit area increased significantly during the American Revolution with both an increase in troops and the arrival of numerous Loyalists. Much of this population however, technically resided beyond the boundaries of the District of Hesse. The district, one of four, included all land in British North America west of Long Point, with no defined northern limit. However, although

²³ *Ibid.* 14.

²⁴ For further discussion of attempts to distance the Confederacy from non-Aboriginal influences in 1789 and 1790 see Chapter 2.

²⁵ Kathleen DuVal. *The Native Ground: Indians and Colonists in the Heart of the Continent*. Early American Studies. Edited by Daniel K. Richter and Kathleen M. Brown. (Philadelphia: University of Pennsylvania Press, 2006), 5, 10.

²⁶ *Ibid.* 9.

Detroit was the de facto district center of Hesse, officially it was also outside the district as it had technically been surrendered to the United States in the Treaty of Paris. The official borders of the District of Hesse reflected this fiction, and the district was bordered to the South and west by the Great Lakes system, which had been established as the border between British North America and the nascent United States. The official plan however, was to construct a new district town on the eastern bank, and settle the Loyalists on legal plots of land in British North America.²⁷

Although the District of Hesse had the lowest non-Indigenous population to contend with of all of the districts at that time, there were still several hundred Loyalists who had, for the most part, been illegally occupying land on both sides of the Detroit River since the American Revolution.²⁸ A few ad hoc arrangements had been made since the beginning of the American Revolution to provide land to a few, but these were an exception rather than the rule. Although some simply squatted on Indigenous land, many of those settling on the eastern bank illegally acquired land on which to settle from the Indigenous peoples with their consent. Some negotiated illegal private purchases of Indigenous land, others received personal gifts of land from the area's Indigenous inhabitants.²⁹ Both of these approaches to acquiring a place to live were illegal, although this went unenforced.

²⁷ Lord Dorchester's suggestion to the board was that the town should be located on the shore "opposite to the Island of Bois Blanc, a suggestion that was ultimately heeded as the location for what is now the city of Amherstburg; "Copy of a letter from Lord Dorchester to the Board, 2nd September, '89. Received 16th October, 1789," in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 30.

²⁸ Although their occupation was technically illegally occupying the land, some of these loyalists had been settled on plots by Governor Hamilton to raise the level of food production at Detroit during the war. Lillian Gates. *Land Policies of Upper Canada*. (Toronto: University of Toronto Press, 1968), 14.

²⁹ Most of these gifts or purchases from the local nations were along the shore of the Detroit River, about half of which was settled, or in the process of being settled by 1790. There were however, a few examples of purchases occurring farther inland. The most extensive, and well document example of a purchase in the interior is that of Sally Ainse. For an overview of the early history of settlement in this area see, "Peace, Order, and Good Government: The Organization of a Landscape," Chapter 2 in John Clarke. *Land, Power, and Economics on the Frontier of Upper Canada*. (Montreal & Kingston: McGill-Queen's University Press, 2001), 35-93; For discussion

The illegality of occupation stemmed from the fact that the British Crown had recognized Aboriginal peoples ownership of land in the *pay's d'en haut* with the Royal Proclamation of 1763. The proclamation had been intended to placate Aboriginal peoples and stem the tide of American settlers moving into Aboriginal lands in the interior—an advance that had quickened with the defeat of the French in 1760—in an attempt to avoid armed conflict in the interior. To achieve this, the Royal Proclamation declared that all land in the interior beyond the Appalachian Divide was reserved for the exclusive use of Indigenous peoples. To further protect these lands it stated that:

no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those Parts of Our Colonies where We have thought proper to allow Settlement; but that if, at any Time, any of the said Indians should be inclined to dispose of the said Lands, that same shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly of the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively, within which they shall lie: and in case they shall lie within the Limits of any Proprietary Government, they shall be purchased only for the Use and in the Name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose.³⁰

This meant that although the British Crown claimed the land to the north of the Great Lakes, the law required that the Crown first purchase any land that was to be made available to settlers

of Ainsie see; Alan Taylor. *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution*. (New York: Alfred A. Knopf, 2010. Reprint, New York: Vintage Books, 2011), 396-407.

³⁰ The Royal Proclamation of 1763, “1763, October 7. [Establishing New Governments in America.]”, in *British Royal Proclamations Relating to America*, Clarence S. Brigham, ed., Vol. 12, Transactions and Collections of the American Antiquarian Society (Worcester, Massachusetts: American Antiquarian Society, 1911), 217.

before it could pass to them and settlement commence.³¹ This also meant that although the Land Board may have served as the local representatives of a government claiming authority over the territory in matters related to land, they did not have the authority to dispose of it as they wished, even under British law as it was still Aboriginal land.

Despite this, there was no pressing hurry to conclude a land surrender treaty in the District of Hesse. Although the town of Detroit and other British outposts had been surrendered to the United States in the Treaty of Paris, the Americans found the Aboriginal peoples unsympathetic to their claims that it was now their land. Rejecting the premise that they had been subjects of the King of Great Britain, they refused to recognize the legitimacy of the transfer of these claims to their lands. Further, this was the same territory that the United States had not been able to take possession of in fourteen years of continuous frontier warfare. Although non-Indigenous people, both loyalists and others, continued to arrive after the end of the Revolution, their growth in the first decade was not dramatic.³² Thus, without any pressing needs, this area would see no major treaties for seven years after the American Revolution, leaving it as the last unceded part of the British shoreline from the Detroit River to the St. Lawrence as recognized in the Treaty of Paris.

When the need to acquire land at Detroit to fulfill British plans became apparent to colonial officials after the formation of the Land Board, it had to be undertaken in a manner identified by the British as legal. The written McKee treaty document is a product of this. In form and function the written treaty is an English Common Law land sale agreement, similar to a

³¹ In 1790 the area covered by the McKee Treaty, and all of what is now Southern Ontario, were part of the British Province of Quebec. Although Quebec under British rule had retained its seigneurial system of land tenure, attempts to implement this in the western portion of the province, roughly corresponding to modern Ontario, were abandoned almost immediately after the American Revolution, as the process of making permanent arrangements for American Loyalists was undertaken.

³² John Clarke. *Land, Power, and Economics on the Frontier of Upper Canada*. (Montreal & Kingston: McGill-Queen's University Press, 2001),.

type that would have been used to conduct a transfer of land in England. It is specifically a bargain and sale with *feoffment* agreement.³³ Overall there are few concessions to the particular use of this document to differentiate it from any other such agreement. The treaty document opens in standard British legal form with ‘the Premises’ in which the names of the parties are given, in this case “the principle Village and War Chiefs of the Ottawa, Chippawa, Pottowatomy, and Huron Indians Nations of Detroit [sic] and the King.”³⁴ Apart from the names of those listed as parties to the agreement in ‘the Premises’, the rest of the document is straightforward and British in form. These are followed, in the standard fashion by the details of payment, notable only because the “Twelve Hundred Pounds Currency of the Province of Quebec” was to be paid in “valuable Wares and Merchandise” rather than cash.³⁵ There follows a list of all of the land rights, as understood by the British, to the land being sold which the Aboriginal peoples agreed to transfer with the land, “excepting the Reserve aforesaid.” These rights were to be transferred to the King, and his heirs and successors for their proper use, by the chiefs, their nations and their “Heirs, Executors and administrators.”³⁶ This section is followed by the signatures of the

³³ For information on the rather obscure bargain and sale with *feoffment* agreement, see; Julian Cornwall. *Reading Old Title Deeds*. (Birmingham: Federation of Family History Societies, 1993), 8. Further discussion of the bargain and sale with *feoffment* form with illustrative examples can be found on the University of Nottingham’s manuscripts and special collections website. “Feoffment”, University of Nottingham, <https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deedsindepth/freehold/feoffment.aspx>

³⁴ “No. 2.” In *Indian Treaties and Land Surrenders*, 1-2.

³⁵ *Ibid.* 2. Note, although many documents, including the treaty itself refer to “Quebec currency”, McKee’s entry in the post journal for Detroit discussing the distribution of goods to the peoples of Detroit on the 20th of May states that “The Indians being again assembled, they received the Compensation to the Amount of Twelve hundred pounds *Halifax Currency*” (emphasis added). From 29 March, 1777 the two were worth the same, and thus are directly interchangeable in this discussion. Due to a shortage of coinage in the North American colonies, Quebec currency and Halifax currency were pegged at 5 local shillings to the Spanish dollar. The official value of the Spanish dollar is Sterling on the other hand was 4 shillings 6 pence. Fernand Ouellet. *Economic and Social History of Quebec, 1760-1850: Structures and Conjonctures*. Translated by Robert Mandrou & Allan Greer. The Carleton Library No. 120. (Toronto: Gage Publishing Limited in association with the Institute of Canadian Studies, Carleton University, 1980; French Edition originally published 1966), 60, 62.

³⁶ “No. 2.” In *Indian Treaties and Land Surrenders*, 2.

Europeans in attendance and the doodem³⁷ images of the Aboriginal peoples who were party to the treaty.

This was a standard legal instrument used in British Common Law to facilitate to transfer property from one party to another and effectively serves as a witnessed record of the transfer of the property from the first party to the second. In this particular case, it was from the “the principle Village and War Chiefs of the Ottawa, Chippawa, Pottowatomy, and Huron Indians Nations of Detroit” to the Crown.³⁸ As this was the standard means used by the British to transfer ownership of property between parties, the McKee treaty needed to follow this format for it to be to be considered a legally binding treaty in the eyes of the Crown. Legally, the effects of the agreement were simple. The Crown was purchasing ownership of the land and usage rights to the land specified, totalling approximately 5,440 square kilometers, from the “Chiefs of the Ottawa, Chippawa, Pottowatomy and Huron Indians Nations of Detroit [*sic*]” for 1,200 pounds Quebec Currency in assorted goods.³⁹ In light of the purposes of the Land Board for the District of Hesse to the Crown, a body whose explicit purpose was to facilitate the non-Aboriginal re-settlement of the district in accordance with the law, the treaty includes the provision that the Aboriginal signatories of the treaty were specifically “allowing houses to be built upon the Premises [*sic*]”

³⁷ *Doodems* are a type of Indigenous signature taking the form of images representing individuals. For more information see: Heidi Bohaker. “Reading Anishinaabe Identities: Meaning and Metaphor in *Nindoodem* Pictographs,” in *Ethnohistory* 57, 1(2010). 11-33. Doi: 10.1215/00141801-2009-051.

³⁸ “No. 2.” In *Indian Treaties and Land Surrenders*, 2.

³⁹ Dean Jacobs. “Indian Land Surrenders,” in *The Western District: Papers from the Western District Conference*. K.G. Pryke & L.L. Kulisek, eds. Occasional Papers, no.2. (Windsor: Essex County Historical Society; printed by Commercial Printing Co., 1983), 64; The land purchased in the treaty is described as: “a certain Tract of land beginning at the mouth of Catfish Creek, commonly called Rivière au Chaudière on the North Side of Lake Erie being the Western extremity of a Tract purchased by his said Majesty from the Messesagey [*sic*] Indians in the year One Thousand Seven Hundred and Eighty Four and from thence running Westward along the border of Lake Erie and up the Streight [*sic*] to the mouth of a river known by the name of Channail Ecarté and up the main branch of the said Channail Ecurté to the first fork on the south side, then a due east line until it intersects the Rivière à la Tranche, and up the said Rivière à la Tranche to the North West corner of the said cession granted to His Majesty in the year One Thousand Seven Hundred and Eighty Four, then following the Western boundary of said tract being a due South, direction until it strikes the mouth of said Catfish Creek or otherwise Rivière au Chaudière being the first offset.” “No. 2,” in *Indian Treaties and Land Surrenders*, Vol.2, 2; A list of the goods paid to the four nations from Detroit can be found at the end of the transcript of the McKee Treaty reproduced in Appendix A.

by the King's subjects.⁴⁰ The written treaty document includes no other clauses, leaving the transfer of land the sole recognized element of the treaty— according to the text.

North American Treaties

But what does “treaty” mean? Taking the common European definition, a treaty is the agreement that is reached between the parties, the definitive record of which is a written document that has been validated with distinguishing marks by the parties affirming that it represents an accurate record of what was agreed to. In this instance, the definitive record of the treaty is thus the parchment that was signed on 19 May, 1790. However, a now well-established body of scholarship suggests that this is a culturally relative category, rather than a universal fact.⁴¹

Indigenous peoples conceptions of treaties, and the ways in which they were concluded were markedly different from those of Europeans. Given that each of the four Indigenous nations that signed the McKee treaty had predominantly oral cultures, their methods of recording treaties were not based on pen and parchment. Instead, treaties were entrusted to memory by members of the people who were party to them, although they were often accompanied with exchanges of wampum, the meaning of which would be read to recount the treaty by the keeper who had been entrusted with it.⁴² Practices like the exchange of wampum, which European observers called the “usual ceremonies” had to be tolerated when dealing with Aboriginal peoples and were

⁴⁰ “No. 2,” in *Indian Treaties and Land Surrenders*, 1-2. Although there were thousands of Aboriginal Loyalists who were resettled by the Crown in Upper Canada on land acquired for that purpose, these settlements were further to the East at the Bay of Quinte and the Grand River. This process took place outside of the Land Board system, which was established by Lord Dorchester specifically for the purpose of settling non-Aboriginal peoples on Crown owned land. Gates. *Land Policies of Upper Canada*. 19.

⁴¹ See for example, Treaty 7 Elder's Council et al. *The True Spirit and Original Intent of Treaty 7*, and John Long. *Treaty No. 9: Making the Agreement to Share the Land in Far Northern Ontario in 1905*.

⁴² Colin Calloway. *Pen & Ink Witchcraft: Treaties and Treaty Making in American Indian History*. (Oxford: Oxford University Press, 2013), 30-31.

significant because they were the means of integrating agreements into Indigenous cultural frameworks.⁴³ Scholarship on the McKee Treaty has almost entirely overlooked the multi-layered understandings of the agreements surrounding the Treaty, favouring British perspectives rather than North American Indigenous ones.

Historiography of the McKee Treaty

What little has been written about the McKee Treaty in the years since, has been reflective of the subsequent course of events, that saw the division of the Great Lakes into two nation states, and Aboriginal peoples all but erased from their former homes. This literature has largely ignored the military and political realities of the spring of 1790. Instead, it has largely focused on the treaty as an implementation of late-eighteenth century British imperial policy. Based on a study of the terms of the written document signed on the 19th of May, and notwithstanding some debate over a few finer points, the McKee Treaty of 1790 has consistently been explained as a product of the “Indian clauses” of the Royal Proclamation of 1763 referenced above. Because of the requirement that all land needed to pass through the Crown’s hands before it could pass to a private party, the treaty has been presented as a necessary legal procedure that needed to be undertaken to allow the development of non-Indigenous settlement. Consequently it has been framed as a manifestation of British Imperial policy. In this, the McKee Treaty is little different from many other land cession treaties that were signed in the late eighteenth century in what is now Southern Ontario.⁴⁴ This has generally been taken as a sufficient explanation for the Treaty.

⁴³ Robert Williams. *Linking Arms Together: American Indian Treaty Visions of Lay and Peace, 1600-1800*. (Oxford: Oxford University Press, 1999), 81-82.

⁴⁴ An overview of these treaties, frequently referred to as the early Upper Canadian Treaties, can be found in chapter 3 of Jim Miller’s *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*.

Since the late 1970s interest among historians in Indigenous-Newcomer treaties has increased dramatically. Over the past three and a half decades, the study of Indigenous-Newcomer treaties has emerged as a distinct branch of historical scholarship. Although technically the study of formal political relations, interest in Indigenous-newcomer treaties can be directly traced to the activism of the 1960s and 1970s that was responsible for the birth of the “new history” in the discipline of history as a whole. With many treaties continuing to form the legal basis of relationships between First Nations and Canada and the United States, the emergence of scholarly interest in Imperialism, and Aboriginal activism focused on increasing awareness of their continued existence as distinct from mainstream society, generated considerable interest in these still binding relics of colonialism. The recognition of the continued legal force of the Royal Proclamation of 1763 recognizing Aboriginal title to all land, unless ceded by treaty, in the Supreme Court’s judgement in the *Calder* Case in 1973, and the establishment of the Land Claims process to deal with outstanding treaty issues in Canada which began in earnest in the mid-1970s, brought treaties and Aboriginal peoples to the forefront of political debate in Canada. In the process it definitively established the contemporary relevance of treaty scholarship.⁴⁵ Interest in Aboriginal land rights has seen the emergence of scholarly interest in the process of treaty-making in Canada, and in British, later Canadian, treaty-making policy.

Although this increase in interest has not prompted a study of the McKee Treaty itself, it has prompted scholars to address it to a degree. Prior to this, the McKee Treaty had only been of interest to those working on local histories. The pre-eminent example of this being Ernest

⁴⁵ Since that time, treaty issues have been increasingly commonly heard before the courts, in attempts to resolve outstanding issues, including many related to treaties between Aboriginal Peoples and the Government. This contemporary interest and relevance of the examination of treaties has led to increased interest. Reflected in the writing and publication of Arthur J. Ray’s book *Telling It To The Judge: Taking Native History to Court*.

Lajeunesse's historical overview of the Detroit Region for the Champlain Society.⁴⁶ Interest in Aboriginal land rights has seen the emergence of scholarly interest in the process of treaty-making in Canada, and in British, later Canadian, treaty-making policy. Among these, is the work of three historians who have written on land acquisition in either part of all of what is now Southern Ontario, that touch on the McKee Treaty.⁴⁷

Although studies of treaty-making policy have tended to continue to focus on the implementation of the provisions of the Royal Proclamation, the nature of their interest has resulted in a change in the way that scholars approach Indigenous histories. Older local histories tended to herald the benevolence of the civilized British, towards the frequently unnamed 'Indians,' before continuing a narrative of the construction of civilization. Policy studies have placed Indigenous peoples in a more prominent position. However, that has not meant that they have been recast as historical actors. Heavily influenced by consciousness of the colonizing nature of treaties including the McKee Treaty, which disrupted and displaced Aboriginal peoples, Dean Jacobs' account of the progressive acquisition of Aboriginal title to land in what would later become the Western District of Upper Canada, presents a condemnatory overview of the five treaties that ceded this district.⁴⁸ An overview of the progressing treaty-making used by the Crown to acquire Aboriginal land to facilitate the legal settlement, under the British Crown's

⁴⁶ Ernest Lajeunesse, ed. *The Windsor Border Region: Canada's Southernmost Frontier, A Collection of Documents*. Ontario Series IV. (Toronto: The Champlain Society, for the Government of Ontario, 1960), cix.

⁴⁷ These are, John Clarke. *Land, Power, and Economics on the Frontier of Upper Canada*. (Montreal & Kingston: McGill-Queen's University Press, 2001). Jean-Rierre Morin. "Concepts of Extinguishment in the Upper Canada Land Surrender Treaties, 1764-1862," chapter 2 in, *Aboriginal Policy Research: A History of Treaties and Policies*, Vol VII. (Toronto: Thompson Educational Publishing, 2010), Robert Surtees. "Land Cessions, 1763-1830," in *Aboriginal Ontario: Historical Perspectives on the First Nations*, Ontario Historical Studies Series, edited by Edward Rogers & Donald Smith. (Toronto: Dundurn Press Limited, 1994), 108..

⁴⁸ The Western District was the most westerly portion of Southern Ontario, corresponding with the counties of Essex, Kent, and Suffolk. In existence as an administrative unit from 1792-1853 (Suffolk county was removed from the district in 1798), it was formerly the District of Hesse (1788-1792) which was the administrative unit when the McKee Treaty was signed.

recognition of Aboriginal rights, Jacobs challenges the notion of a respectable legal process, noting apparent problems with the process, which victimized First Nations peoples.⁴⁹

Scholarship on treaty policy has continued to emerge over the last three decades. The most recent work to address the McKee Treaty is Jean-Pierre Morin's examination of the concept of extinguishment in Upper Canadian land surrender treaties. Examining both the text of the written treaty document and other land board records to examine this treaty, he looks at what they have to say that both Indigenous peoples and McKee thought about the extinguishment of rights. Far from being abuses of power victimizing its Indigenous signatories, Morin argues that; "[t]he treaty negotiated by Alexander McKee in 1790 follows, nearly to the letter, the rules and protocols established by the Royal Proclamation and subsequent Indian policies relating to the acquisition of Aboriginal lands."⁵⁰ Although he focuses on one western concept and its' manifestation in this treaty, Morin's analysis does at least consider some contemporary evidence about Indigenous peoples perspectives on this treaty.

To date, the most extensive analysis of Indigenous peoples' understandings of the McKee treaty is found on a few pages in Robert Surtees' 1983 dissertation, subsequently distilled into a page in a chapter on land cessions in Upper Canada. In just over four lines he suggests that:

Most likely the chiefs accepted the sale because they resided for the most part on the West bank of the Detroit River and beyond, and thus felt little need to retain the ceded eastern region. Secondly, as they faced the possibility of an American invasion of their territory, they probably wanted to strengthen their friendship with the British.⁵¹

⁴⁹ Jacobs. "Indian Land Surrenders," in *The Western District*. For his discussion of this in the context of the McKee Treaty specifically see page 65.

⁵⁰ Morin. "Concepts of Extinguishment in the Upper Canada Land Surrender Treaties," in *Aboriginal Policy Research: A History of Treaties and Policies*, 31.

⁵¹ Surtees. "Land Cessions, 1763-1830," in *Aboriginal Ontario*. 108.

This represents the only work that has considered that Indigenous peoples were rational actors, rather than passive recipients. Surtees research represents the full extent of scholarship on the McKee Treaty that has devoted some consideration to Indigenous peoples.

In the last fifteen years or so, what scholars have shown increasing interest in is Alexander McKee and his role in the negotiation of this treaty as an individual rather than simply an imperial agent. Focusing on his position in colonial society, scholars have argued that McKee used his position as Crown negotiator to improve his own position in colonial society. Larry Nelson argues that McKee used his position on the Land Board to help secure high social status in colonial society.⁵² John Clarke, the author of the longest and most in depth discussion of the McKee treaty on the other hand, argues that he used his position to improve his own financial circumstances.⁵³ The idea that Indian Agents like McKee acted in ways that furthered their own interests when negotiating land cession treaties is not a new one.⁵⁴ The notable characteristic of this literature examining the role of McKee himself, however, is the exclusion of any discussion of his work for the Indian Department, or his Indigenous heritage. Nelson's discussion of McKee's employment by the Land Board for the District of Hesse, despite being part of a book that argues for McKee's centrality in the implementation of Britain's "Indian policy" in his role as a cultural mediator, stands isolated from his discussion of his work for the Indian Department.⁵⁵ Clarke on the other hand makes no mention of McKee's role as the one responsible for "Indian policy," because his study is confined by the artificial borders of Upper Canada and the County of Essex on which his work is focused. The only work on McKee and his

⁵² Nelson. *A Man of Distinction among Them*, 133-140.

⁵³ John Clarke. *Land, Power, and Economics on the Frontier of Upper Canada*. (Montreal & Kingston: McGill-Queen's University Press, 2001), 132-141.

⁵⁴ White, *The Middle Ground*, 445-6.

⁵⁵ For Nelson's discussion of McKee's work for the Land Board see Chapter 7, "Land Acquisition, Public Affairs, and politics, 1783-1794," for his discussion of McKee's work for the Indian Department at this time see Chapter 8, "Indian Affairs, 1783-1794;" Nelson. *A Man of Distinction among Them*, 133-177.

role as a cultural mediator during his employment by the Land Board is the recent biography of McKee by Frederick Wulff in which he completely ignores McKee's involvement in land acquisition for the Land Board and the treaty that is named after him. To date no one has reconciled these two different sides of McKee in relation to this treaty.

Work in this vein has failed to keep pace with developments in the study of Native-newcomer treaties more generally. Like scholarship on treaties specifically, recent work on Native-newcomer relations has moved away from a contact history, towards understanding Aboriginal peoples on their own terms. For much of the past twenty years, the increasingly dominant trend in scholarship on the early-modern history of Native-newcomer relations in the Great Lakes region has been an acknowledgement of the centrality of both Aboriginal peoples, and the importance of understanding Aboriginal culture. White's seminal text, *The Middle Ground* is an example of this, placing Aboriginal peoples at the forefront of the story of a search for accommodation and common meaning at the point of cultural interaction, and it has been in part responsible for this paradigm change.⁵⁶ John Sugden's biography of the Shawnee chief Blue Jacket is another example of scholarship in this tradition. Discussing Blue Jacket, who Sugden argues was one of the most adept Aboriginal diplomats and warriors to have lived, the book also provides a good discussion of Aboriginal diplomacy, and the pan-Indianism of the late eighteenth century in the Great Lakes Region.⁵⁷ This is a very different approach to histories of

⁵⁶ Alan Taylor. *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution*. New York: Alfred A. Knopf, 2010. Reprint, New York: Vintage Books, 2011), 11. The title of Taylor's book is a play on the title of *The Middle Ground*, reflecting Taylor's different geographic and temporal focus. Similarly, the title of Kathleen DuVal's *The Native Ground: Indians and Colonists in the Heart of the Continent*, is also a play on the title of White's work, to which it is a direct response.

⁵⁷ John Sugden. *Blue Jacket: Warrior of the Shawnees*. American Indian Lives, edited by A. LaVonne Brown Ruoff, et al. (Lincoln, NE: University of Nebraska Press, 2000), 4-6. The main manifestation of this late eighteenth century Pan-Indianism in the Great Lakes Region was the so called Western Confederacy, an alliance of many of the Aboriginal peoples of the Great Lakes Region who banded together in the face of the treat of American incursion into their territory.

Aboriginal peoples taken by the authors of most of the work that looks at the McKee Treaty, yet this is the direction in which future scholarship on the McKee Treaty will have to move.

Interestingly, the study of this treaty has continued to be defined by the legacy of the national history paradigm. With the exception of Surtees, all of the work that has looked at this treaty has been limited in scope to the modern province of Ontario. The international border has proven just as impermeable to scholarship in the other direction as well. This treaty is largely absent from studies of Indigenous-newcomer relations in the Great Lakes that have tended to focus on developments in the United States during this time period, despite often discussing signatories of this treaty. The one exception to this is Alan Taylor's *The Divided Ground*.⁵⁸ The result of this, whether consciously or not, has been the assertion that this treaty can be understood in isolation.

Reading the Unwritten Treaty

This thesis employs an ethnohistorical methodology to explore the understandings of the Aboriginal peoples of Detroit, and incorporate them into the discussion of the McKee Treaty. Emerging in the 1950s in the field of anthropology, ethnohistory can be broadly defined as a multidisciplinary approach incorporating both historical and ethnographic methodologies to conduct historical research relating to groups that have left few written records of their history, at which point traditional historical methods stall.⁵⁹ This gave birth to what Richard White has called the “new Indian history”, which places Aboriginal peoples at its center, placing them on

⁵⁸ The McKee Treaty plays a minor part in Taylor's epilogue, which is focused on Sarah (Sally) Ainese, an Indigenous woman who was deprived of land she had purchased by this treaty and subsequent actions by McKee and the Land Board; Taylor, *The Divided Ground*, 396-407.

⁵⁹ James Axtell. “Ethnohistory: An Historian's Viewpoint”, in *Ethnohistory* 26, no.1 (1979), 2.

an equal footing with their non-Aboriginal peers.⁶⁰ Ethnohistorical methodologies have grown to dominate the study of Aboriginal peoples and their histories since the second half of the twentieth century.

The study of Aboriginal-newcomer treaties in common with many topics relating to Aboriginal peoples has seen extensive use of ethnohistorical methodologies. In *The True Spirit and Original Intent of Treaty 7*, the authors make extensive use of Aboriginal peoples' oral histories to re-examine Treaty 7, and explore the way in which Aboriginal peoples understood the treaty. In doing so they found that Aboriginal peoples' understanding of the treaty based on their cultural understandings differed significantly from the English text of the written treaty document, as did what they were told by the translators at the treaty proceedings.⁶¹

Situating this treaty as a product of the middle ground, and thus the result of mediation between Indigenous and non-Indigenous peoples necessitates that the nature of the treaty be reconceptualised, marking a break from past scholarship. Although the signed treaty document may be an important part of this treaty, this distinctly western form of knowledge cannot be taken as the definitive record of the treaty without further examination. Instead, the meaning of the treaty must be reconstructed by examining the understandings of all of the parties involved. Doing so requires overcoming specific problems because of the lack of documentation. In many ways, the sources that exist are ideally suited to an analysis of non-Indigenous settlement and policy, such as that which has been conducted in the past. In common with most early-modern Indigenous history, material produced by Indigenous peoples is almost non-existent. Furthermore, because the treaty negotiations were conducted in private, there is no record of the treaty council to analyze.

⁶⁰ White. *The Middle Ground*. XI.

⁶¹ Treaty 7 Elders and Tribal Council, with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter. *The True Spirit and Original Intent of Treaty 7*. (Montreal & Kingston: McGill-Queen's University Press, 1996), XIII, 324.

However, by drawing on a variety of sources by non-Indigenous authors, sufficient material can be found for an ethnohistorical analysis of this treaty. McKee's later correspondence with the Land Board includes some discussion of the negotiations that resulted in this treaty. Also, the Land Board records themselves do contain a few petitions from individuals that are accompanied by the testimony of Indigenous chiefs about this treaty. However, although of great value, by virtue of their original intents, these sources are heavily biased towards land related issues. It is only incidentally, if at all, that they touch on the relationship between Indigenous peoples and the British. To complement these sources that have defined studies of this treaty thus far, I have turn to correspondence, official reports, orders and records of treaty councils from the Indian department and the civilian and military high command. Well known in the study of Indigenous-newcomer relations, this material has been almost entirely ignored by those interested in this treaty. However, it provides far more information on the nature of relations between Indigenous peoples and the British. This material has been supplemented with similar records from the United States relating to American relations with the Indigenous nations of Detroit. To develop an understanding of Indigenous understandings, I examined this material in conjunction with scholarship on what is known about the cultures of the four Indigenous First Nations.

The remainder of this thesis is divided into a total of three chapters including a conclusion. The McKee Treaty cannot be understood outside of its' Aboriginal cultural and political context, therefore Chapter One focuses on the Potawatomi, Wyandot, Ojibwa, and Odawa nations of Detroit, individually, and the wider Confederacy to which they belonged. This chapter discusses the Aboriginal peoples who signed the treaty. The discussion then turns to the larger political entity, the Confederacy, and these peoples relationship with it. In the process,

Chapter One explores the continued functioning of “the middle ground,” and highlights the Aboriginal aspects that continued to define diplomacy in the so-called *pays d’en haut*.

Chapter Two turns to the events surrounding the disastrous treaties signed at Fort Harmar a year and a half before the conclusion of the McKee Treaty at Detroit. The failure of the two treaties of Fort Harmar, the strength of the Confederacy as an entity, and its cohesion in the face of threats to constituent peoples land base are the main elements of this section. Analyzing an event that transformed the climate in which the McKee Treaty was negotiated, this chapter highlights the repercussions of failing to engage on “the middle ground.” In doing so, the Confederacy’s stance regarding the Aboriginal land base in the *pays d’en haut*, and their commitment to the principle of universal ownership of land at the time that Alexander McKee was preparing to negotiate the treaty.

Chapter Three then turns to the McKee Treaty of 1790. This chapter reconstructs the negotiation process that produced the McKee Treaty. It is argued that in addition to the four named nations of Detroit that signed the Treaty, the parties to this agreement included the peoples of the Confederacy more generally. This chapter moves beyond the text of the signed treaty document and the surrender of land, highlighting the ways in which the spirit and intent of the McKee Treaty can be seen as a treaty of alliance.

Chapter 1: Aboriginal Detroit

Know all Men by these Presents, that we the principal Village and War Chiefs of the Ottawa, Chippawa, Pottowatomy and Huron Indians Nations of Detroit for and in consideration of the Sum of Twelve Hundred Pounds Currency of the Province of Quebec at Five Shillings per Spanish Dollar for valuable Wares and Merchandise to us delivered by the hands of Alexander McKee, Esquire, Deputy Agent of Indian Affairs, the receipt of whereof we do hereby acknowledge, have by and with the consent of the whole of our said Nations, given, granted, enfeoffed, alienated, and confirmed and by these presents do give, grant, enfeoff, alien, and confirm unto His Majesty George the Third, King of Great Britain, France and Ireland, Defender of Faith, &c., &c., &c., a certain Tract of land.⁶²

These lines, which open the main body of the McKee Treaty of 1790, echo out from across the centuries, clearly indicating those who were parties to the written document to follow. There is no mystery surrounding the identity and place of King George III and although far less well known, there is still a considerable body of work discussing Indian Agent Alexander McKee. But who were the “Ottawa, Chippawa, Pottowatomy and Huron Indians Nations of Detroit” who also signed the treaty on the 19th of May, 1790 (hereafter referred to as the Odawa, Ojibwa, Potawatomi, and Wyandot of Detroit)? This chapter focuses on them. Briefly exploring their history, the chapter then turns to a discussion of the political situation in the Great Lakes, and the People of Detroit’s place within it. It also discusses the formation of the Confederacy among the peoples of the *pays d’en haut* after the American Revolution.

The Detroit Frontier, 1790

⁶² “No. 2”, in *Indian Treaties and Land Surrenders*. Vol. I. 1-2.

Although they are referred to as “Nations of Detroit”, for the most part the Indigenous people did not actually reside at the British settlement proper, but were instead residents in the general vicinity of that post. The lands included in the treaty were entirely situated within the British Province of Quebec, which officially ended at the Detroit River, with the town of Detroit, with the fort having been ceded to the Americans in the Treaty of Paris. Extending to some 5,440 square kilometers, the treaty roughly covered all lands south of the Thames River and north of Lake Erie from the base of Long Point to the Detroit River.⁶³ In addition, the Treaty also included a small, roughly triangular piece of land on the north side of the Thames at the river’s mouth, bounded to the north by a line running due east from the mouth of the Channel Ecarté, or what is now known as the Sydenham River. In addition to excluding two reserves on the shore of

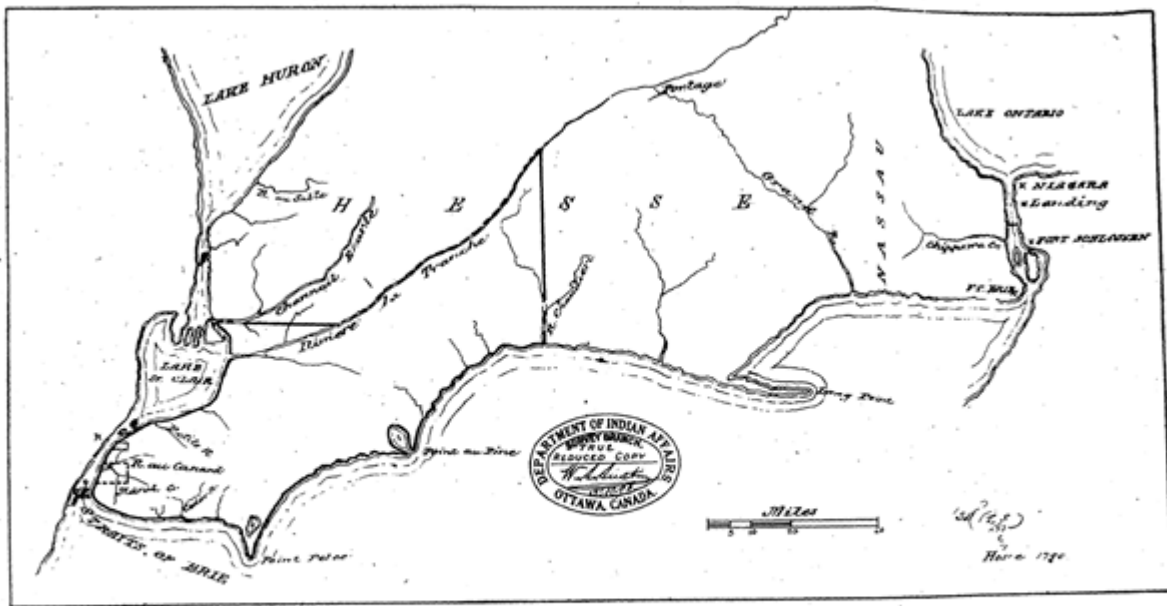


Fig. 1: The area ceded in the McKee Treaty included all land within the bold lines at left, excluding that within the two dotted at lower left. *Indian Treaties and Land Surrenders: from 1680 to 1890 in Two Volumes. Vol. 1.* (Ottawa: Brown Chamberlin. 1891), 26-27.

⁶³ Dean Jacobs. “Indian Land Surrenders,” in *The Western District: Papers from the Western District Conference*. K.G. Pryke & L.L. Kulisek, eds. Occasional Papers, no.2. (Windsor: Essex County Historical Society; printed by Commercial Printing Co., 1983), 64.

the Detroit River, the also treaty notably excluded all islands on the water bodies that bounded this cession.⁶⁴

On the whole, the nations of Detroit, like the Town of Detroit itself were situated on the Western side of the Detroit River, on lands not included in the surrender made to the British in 1790. The Wyandot are the First Nation that is most associated with the Detroit area, and the Wyandot Nation of Anderdon is still present on both sides of the Detroit River to this day. At the time of the treaty, they occupied a village almost directly across the river from Detroit. To the south they also occupied the mouth of the Rivière-aux-Canards, in what is now the hamlet of River Canard at the north end of Amhurstburg, where they maintained extensive cornfields, although no more than two families lived there year round.⁶⁵ They also had a significant presence on the West side of the River with the village Maguagua in what is today Trenton, Michigan, and Brownstown, about 12 kilometres south of Detroit.

The other peoples of Detroit were more removed from the British settlement, although they remained in the vicinity. The Odawa also had a small presence across the river from the town of Detroit, including a burial ground. That said, they were largely somewhat more distant, with a significant concentration living at the west end of Lake Erie, and in particular concentrated at the mouth of the Maumee River.⁶⁶ The Detroit Potawatomi had established three new villages the first, on the Huron River near the present day location of Ann Arbor, the second on the Salt Fork of the River Basin near Campaign, Indiana, and the last near the modern town of Eaton Rapids. Some would also settle in the majority Odawa village on the Kalamazoo River in

⁶⁴ David McNab. *Circles of Time: Aboriginal Land Rights and Resistance in Ontario*. (Waterloo: Wilfred Laurier University Press,) 152.

⁶⁵ Untitled Map, Early Land Surveys, Archives of Ontario.

⁶⁶ Helen Hornbeck Tanner, ed. *Atlas of Great Lakes Indian History*. Cartography by Miklos Pinther. The Civilization of the American Indian Series, Vol. 174. (Norman, OK: University of Oklahoma Press, 1987), 61.

the vicinity of the modern City of Battle Creek.⁶⁷ The Ojibwa jointly occupied two villages to the Northwest of Detroit on the Rouge River with the Potawatomi. In addition, the Ojibwa also had a significant presence at the mouth of the Thames River at the southeast corner of Lake St Clair.⁶⁸

This did not represent the full extent of the Aboriginal occupation of the area at this time. One notable exception from the treaty were Caldwell nation of Ojibwa. Living on Point Pelee at the time of the treaty, their land was thus not included in the cession, signed on the 19th of May. They are not however, considered to be one of the four nations of Detroit, although they are Ojibwa, and part of the Three Fires Confederacy which also included the Ojibwa, Odawa, and Potawatomi of Detroit. They ultimately went unrepresented among the chiefs present at the McKee Treaty council, and did not sign the treaty on the 19th of May, 1790.⁶⁹

Thus, on the whole the four signatory nations were largely resident on what was de facto American territory, and not on land ceded in the Treaty. Although these peoples did not permanently occupy this territory, they made use of it and its resources at the time of the treaty. Along the East shore of the Detroit River, there were important stands of Maple that were used for the production of maple sugar.⁷⁰ The Wyandot notably also maintained extensive cornfields within this area, and in particular along the Detroit River, within the boundaries of the more southerly of the two reserves that would be created.⁷¹ The remainder of the territory was

⁶⁷ David R. Edmunds, *The Potawatomis: Keepers of the Fire*. The Civilization of the American Indian Series, vol. 145. (Norman, OK: the University of Oklahoma Press, 1978), 99.

⁶⁸ Helen Hornbeck Tanner, ed. *Atlas of Great Lakes Indian History*. Cartography by Miklos Pinther. The Civilization of the American Indian Series, Vol. 174. (Norman, OK: University of Oklahoma Press, 1987), 61.

⁶⁹ Caldwell First Nation subsequently launched a land claim in relation to their exclusion from the McKee Treaty of 1790, on the basis that there were no chiefs from the community present at the conclusion of the treaty. They went on to win their land claim in 2010, winning a \$105 million settlement to establish a new urban reserve in Leamington, Ontario. "Fact Sheet: Caldwell First Nation specific claim." Aboriginal Affairs and Northern Development Canada. Last modified 24 February, 2012. <http://www.aadnc-aandc.gc.ca/aiarch/mr/nr/s-d2006/02788bk-eng.asp>

⁷⁰ Council Held at Detroit, 2 July 1790, Reel C-1224, Library and Archives Canada

⁷¹ Untitled Map, Early Land Surveys, Archives of Ontario

predominantly covered by swampy Carolinian woodland, and beaver meadow.⁷² The interior of what is now the Southern Ontario peninsula was used for hunting, especially by the Ojibwa, most of whose hunting camps were located here.⁷³ Therefore, although the year-round Aboriginal population of this territory was limited, the peoples of Detroit maintained ties to the territory and actively made use of it.

Origins

In order to understand this treaty, it is necessary to understand the Indigenous people of Detroit, and the nature of their relationships with each other, and with non-Aboriginal peoples. The peoples of Detroit had a long history of interaction with non-Aboriginal peoples, spanning over 150 years. All had been active in the fur trade with the French, from the first quarter of the seventeenth century on.⁷⁴ Although they would be ravaged by disease, they also enjoyed benefits from their trade relationship with the French. However, in the middle of the seventeenth century would prove to be a tumultuous period, who had managed to survive and thrive. A series of attacks launched against these peoples by their established enemies of the Haudenosaunee Confederacy would result in their dispersal from their traditional homes. The Wyandot, Odawa, Ojibwa, and Potawatomi Nations of Detroit all grew out of the migrants and peoples in southern Michigan after the collapse of more eastern peoples due to Iroquois.

The wars and forced relocations from Wendake, or Huronia, the traditional homeland of the Wyandot peoples in 1649, was the first in a series of events that dramatically reshaped the *pays d'en haut*. Under prolonged assault from their longstanding enemies of the Haudenosaunee

⁷² Fred Coyle Hamil. *The Valley of the Lower Thames, 1640 to 1850*. (Toronto, University of Toronto Press, 1951; Reprinted 1973), 14-15.

⁷³ Jacobs. "Indian Land Surrenders", in *The Western District*. 61.

⁷⁴ Tanner, ed. *Atlas of Great Lakes Indian History*. 62.

Confederacy, the Wyandot finally relented and abandoned Wendake on the shores of Georgian Bay, dispersing across eastern North America. Some went east with the Jesuits to live with their allies on the St. Lawrence, the French colony of Quebec. Others sought refuge closer to home among other peoples of the *pays d'en haut*. In 1670 and 1671, the Wyandot and Odawa who had fled among the Neutral and Petun resettled in two large villages on Mackinac Island, one Wyandot and the other Odawa.⁷⁵ Close to the St. Ignace Mission and Fort de Buade, they were able to maintain trade, and alliance with the French at this new location. It was these peoples would only coalesce at Detroit at the beginning of the eighteenth century.

In 1701, Antoine Laumet de La Mothe, sieur de Cadillac returned from France in possession of a new trading concession from the King, permitting him the right to establish trade along the Detroit River. Problematically for trade however, in the wake of the so called “Iroquois Wars” that had seen the destruction of Huronia, the area around Detroit had also been left largely uninhabited in comparison to Aboriginal North America more generally in the late-seventeenth century. Like the Wyandot of Huronia, the Neutral people had also been targeted by the Haudenosaunee and in 1650 they were driven from their homes in what is now the southernmost tip of Southern Ontario, between the Thames River and Lake Erie. After the dispersal of the Neutral, the Haudenosaunee had turned to the “fire nations” who occupied much of contemporary lower Michigan. They also abandoned their lands, leaving much of lower Michigan deserted as they headed south and west around Lake Michigan, congregating at Green Bay.⁷⁶ The lack of Aboriginal peoples in the area around the Detroit river presented a problem, as they were essential for the trade, and Cadillac therefore extended an invitation to the Odawa and Wyandot of Mackinac to join him in settling at Detroit, having been acquainted with them in

⁷⁵ Charles E. Cleland. *Rights of Conquest: The History and Culture of Michigan's Native Americans*. (Ann Arbor: University of Michigan Press, 1992), 98.

⁷⁶ *Ibid*, 93.

his activities at Michilimackinac. Many Wyandot, along with some Odawa decided to take up the offer, and moved to the Detroit River Valley at this time.⁷⁷

Simultaneously, further to the West, the Potawatomi found themselves under threat, and it was at this same time that they would take up residence at Detroit. Fearing that their villages in the Lower St. Joseph Valley were vulnerable to Fox and Mascouten raids against their villages in the Lower St. Joseph Valley, a sizable number decided to remove to the vicinity of Detroit. Establishing a village alongside that of the Wyandot near the shore, by 1718 the Potawatomi had become the most populous nation at Detroit.⁷⁸ These nations were joined in the reoccupation of this area by the Ojibwa who also decided to move to the area as a result of the French trade post, and the valuable opportunities that it offered.⁷⁹ These moves established the beginnings of the peoples of Detroit. The peoples of Detroit were on the whole, were still relatively recent arrivals to the area in which they resided at the time that the treaty was signed in 1790.

There has been considerable debate respecting the nature of the communities that emerged from the dispersals of established communities during the mid-seventeenth century. One argument that has been advanced is that the interaction in the region was essentially two sided. Taking place between non-Aboriginal peoples, and a single Aboriginal coalition that emerged after traditional polities were destroyed in the conflict. Notable among those in this camp is Richard White who argues that in the chaos following the Iroquois Wars, the communities that coalesced out of the refugees forged new identities out of necessity.⁸⁰ More recently however, it has been argued that a single unified Aboriginal identity did not emerge

⁷⁷ For more information on the Wyandot move to Detroit see, John L. Steckley, *The Eighteenth-Century Wyandot: A Clan-Based Study*. Indigenous Studies Series, edited by Deanna Reder. (Waterloo: Wilfrid Laurier University Press, 2014), 69-73.

⁷⁸ Edmunds, *The Potawatomis: Keepers of the Fire*. 29-30.

⁷⁹ Cleland, *Rights of Conquest*. 9.

⁸⁰ White, *The Middle Ground*.

after the Iroquois Wars. Rather, despite their fragmentation, and the establishment of new communities out of the remnants of the old, they retained distinct identities that predated the dispersal of many of the peoples in the mid-seventeenth century. Historian Heidi Bohaker has notably demonstrated the strong continuity of kinship networks among Anishinaabe peoples such as the Odawa, Ojibwa, and Potawatomi, noting that “[i]f Anishinaabe peoples were ever refugees, they certainly were not for long”.⁸¹ Although the peoples of Detroit may have congregated in villages that included multiple peoples, the individuals within these communities retained separate, and distinct identities predating their resettlement at Detroit.

Although there were some common adaptations to the changed situation, the nations of Detroit retained their separate identities, despite their diverse origins. As Andrew Sturtevant notes, although the Wyandot and Odawa of Detroit continued their established longstanding relationship after their move to Detroit, they retained their cultural and linguistic independence. With the Wyandot retaining their Iroquoian language, and the Odawa retaining their Algonquian language, the neighbours could only communicate through the use of interpreters. They also maintained the different economies to which they were accustomed, and their political independence.⁸² In 1738, these differences led to war between these two nations that French observers had described as “brothers”, when the Wyandot made peace with the Flatheads.⁸³ Formerly a mutual enemy, the Wyandot sent warning to the Flatheads when the Odawa launched a raiding party, with some of the party sent to warn them joining in the fighting against the Odawa. With their distinct identities, the peoples of Detroit also retained their individuality and

⁸¹ Heidi Bohaker. “*Nindoodemag*: The Significance of Algonquian Kinship Networks in the Eastern Great Lakes Region, 1600-1701”, in *William and Mary Quarterly* Third Series, Vol. 63, No.1 (2006), 51.

⁸² Andrew Sturtevant. “‘Inseparable Companions’ and Irreconcilable Enemies: The Hurons and Odawas of French Detroit, 1701-38”, in *Ethnohistory* 60, No.2 (2013), 224-225.

⁸³ *Ibid*, 223.

maintained independent interests that at times meshed, and at others clashed with the interests of their neighbours.

The British, 1760 and the Importance of Gift Giving

During their first half-century at Detroit, the peoples of Detroit were close allies of the French. The defeat of the French at Quebec and the Montreal, and the British Conquest of Canada in 1760 ultimately brought an end to Detroit's relationship with the French Crown. Despite the French defeat, the peoples of Detroit were not ready to abandon their relationship with their French Father, and actively resisted the British. This situation was not helped by British policy, at the direction of the Governor General Lord Amherst, that gifts to Aboriginal peoples were to be cut. Feeling immense dissatisfaction with the British, and hoping for the return of their French Fathers, the peoples of Detroit and beyond expressed their dissatisfaction in 1763. Under the leadership of the Odawa Chief Pontiac, many but not all of the peoples of Southern Great Lakes, including those at Detroit, united to expel the British.

The failure of the British to meet the demands of Aboriginal peoples in the Great Lakes to continue to provide regular gifts, was a failure to recognize the importance of what Richard White has famously referred to as "the middle ground".⁸⁴ Although the non-Aboriginal population of North America was steadily growing, in the *pays d'en haut* Aboriginal peoples still outnumbered non-Aboriginal individuals and they retained a great deal of power to define the manner of interaction. Over the course of more than a century of contact, Aboriginal peoples and newcomers, predominantly the French, mediated a system of interaction drawing on both Aboriginal and newcomer elements that defined relations in the *pays d'en haut*. One, although

⁸⁴ For the clearest, and most concise overview of the concept of a "middle ground" see pages XII-XIII of the preface to the twentieth anniversary edition of this book; White. *The Middle Ground*. XII-XIII.

far from the only, key element of this system was the ongoing practice of gift-giving between the parties.

The practice of gift-giving stemmed from pre-contact Aboriginal practices that necessitated proof that the words one spoke were true. Despite their long exposure to non-Aboriginal peoples, and the incorporation of non-Aboriginal goods into their economies, these peoples had not become capitalists. To the peoples of Detroit, gifts did not just physical goods being transferred from one individual or group to another. Cary Miller notes that “[b]y accepting gifts, individuals, regardless of their rank in the community, acquiesced to the ideas, commitments, or political agreements that accompanied them.” She goes on to note that “[t]his acceptance put one in a position of obligation to the giver”.⁸⁵ Consequently, rejection of gifts constituted a rejection of the messages and obligations associated with them.

This is significant in the wake of the defeat of the French because, unlike European diplomacy, treaties between peoples were not fixed by the signing of a treaty. Rather they had to continually be maintained by the parties to remain valid. This is most well known in relation to the metaphorical “Covenant Chain” relationship between the British and the Haudenosaunee. In the context of this relationship goods, the exchange was referred to as ‘burnishing’ or ‘brightening’ the silver chain between the allies.⁸⁶ Failure to continue to renew or burnish the chain with gifts over time would result in it breaking. Similar relationships had been essential to the French alliance with the peoples of the *pays d’en haut*. The failure of the British, and specifically Lord Amherst to recognize the importance of continuing this practice in the wake of

⁸⁵ Cary Miller. “Gifts as Treaties: The Political Use of Received Gifts in Anishinaabeg Communities, 1820-1832”, in *American Indian Quarterly* 26, No.2 (2002), 225.

⁸⁶ Francis Jennings. *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*. Iroquois and Their Neighbours. (Syracuse: Syracuse University Press, 1995), 95.

the war with France directly contributed to the disintegration of relations between the British and the peoples of the *pays d'en haut* who had formerly enjoyed an alliance with the French.

Ultimately Pontiac's War against the British collapsed with the failure to capture Detroit. In the wake of the failure of the conflict to drive out the British, the peoples of Detroit on the whole, lived in peace with their British Neighbours, although a considerable number removed from the immediate vicinity of Detroit. It was at this time that the Detroit Odawa moved from the Detroit River to the west end of Lake Erie.⁸⁷ This was true of the Detroit Potawatomi, who abandoned their village at Detroit when it became clear in late October of 1763, that Pontiac's Siege of Detroit would collapse as various peoples returned home.⁸⁸ This contrasted sharply with the more westerly Potawatomi peoples who remained strongly opposed to the British presence in the *pays d'en haut*. Looking to the French and Spanish on the Mississippi for support, Western Potawatomi remained committed to driving the British out, unlike their cousins at Detroit, who at peace with the British, established their new villages in the vicinity of Detroit by 1774.⁸⁹ Such differences defined the *pays d'en haut* before the American Revolution.

The improvement in relations between many of these people and the British stemmed from the hard lessons learned by the British high command as a result of Pontiac's War, about the importance of engaging with the middle ground. The end of the conflict saw the reintroduction of gifts to Aboriginal peoples by the British, to maintain their alliances with them. This was in no small part the result of the fact that the costs of the conflict for the British had considerably exceeded the savings that had been realized by ending the presents in the first

⁸⁷ Helen Hornbeck Tanner, ed. *Atlas of Great Lakes Indian History*. Cartography by Miklos Pinther. The Civilization of the American Indian Series, Vol. 174. (Norman, OK: University of Oklahoma Press, 1987), 62.

⁸⁸ Edmunds, *The Potawatomis: Keepers of the Fire*. 90.

⁸⁹ *Ibid.* 99.

place.⁹⁰ This ongoing process of gift-giving would continue to be a hallmark of the relationship between Aboriginal peoples and the British into the nineteenth century. It served as testament to the power of Aboriginal peoples in the interior, and the importance of engaging in Aboriginal diplomacy to fulfill their expectations.

The American Revolution and the Origins of Unity

The American Revolution brought profound change to the *pays d'en haut*, and it would ultimately see many of the peoples of the interior unite against the United States, in alliance with Britain. By and large, Aboriginal peoples really cared very little about the nature of the Conflict between the American Colonies and Britain. Few had any real devotion to the Crown and its cause, although there were some notable exceptions such as Mohawk Chief Joseph Brant.⁹¹ The War between the British and their rebellious colonies however, offered Aboriginal peoples an opportunity to attempt to secure their interests. Many of the peoples of the *pays d'en haut* slowly entered the war on the side of the British, realizing that an American victory would damage their interests, and leave their land in jeopardy, believing that victorious British would gratefully protect their lands from American settlers.⁹² Others were pushed into the alliance with the British in response to the ongoing American raids along the frontier that indiscriminately targeted Aboriginal settlements.⁹³ Despite the various reasons for allying with the British, the conflict

⁹⁰ White. *The Middle Ground*, 270.

⁹¹ Richard White notes that “Brant was devoted, in roughly descending order, to the league of the Iroquois, to the Indians as a race, and to the British Empire”. White. *The Middle Ground*. 433.

⁹² Taylor notes that the Mohawk, who Johnson had long favoured as “privileged allies”, recognized that the Americans would ultimately treat them with far less respect than they currently enjoyed. Meanwhile, the Onondagas, Cayugas, and Senecas hoped that victorious British forces would gratefully protect their lands from American settlers. Alan Taylor. *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution*. (New York: Alfred A. Knopf, 2010. Reprint, New York: Vintage Books, 2011), 84-85.

⁹³ . White. *The Middle Ground*. 384-385.

ultimately pushed many peoples into an alliance with each other and with the British. In the process, the conflict transformed the *pays d'en haut*.

Before the Conflict, the *pays d'en haut* had been dominated by disparate interests, and had lacked any real unity. This can be seen among the Potawatomi. The Western Potawatomi continued to actively destroy the British presence in the *pays d'en haut*, while their brothers at Detroit maintained a shaky peace with the British that fell short of alliance. The threat posed by the Revolution helped unite these disparate factions against a common enemy, the United States. They were not alone, all four of the peoples of Detroit joined the alliance against the United States during the Revolution. Joining them were peoples from throughout the *pays d'en haut* including; Shawnee, Lenape, their old enemies the Haudenosaunee.

Although unity among the peoples of the *pays d'en haut* would only really begin to emerge during the American Revolution, pan-Aboriginal unity itself was not a new idea. The Shawnee in particular had been particularly active in trying to organize the peoples of the *pays d'en haut* against external threats and, Gregory Dowd notes; “Although the Indian quest for unity intensified during the Revolution, Shawnee embassies to the Cherokees and other southern Indians did not represent radical innovations in 1776”.⁹⁴ Throughout the eighteenth century, the Shawnee promoted ideas of pan-Aboriginal unity, much to the dismay of the British and the French.⁹⁵ These ideas had coalesced by the 1720s, and in the Seven Years War Shawnee along with militant factions of the Creek and Cherokee took concerted action.⁹⁶ There had therefore been ideas of pan-Aboriginal unity, and even united elements among the peoples of the *pays d'en haut* well before the Revolution.

⁹⁴ Dowd. *A Spirited Resistance*. 51.

⁹⁵ Stephen Warren. *The Worlds the Shawnees Made: Migration and Violence in Early America*. (Chapel Hill, NC: The University of North Carolina Press, 2014), 155.

⁹⁶ *Ibid*, 156; Dowd. *A Spirited Resistance*. 51.

Despite the fact that they were broadly united in a confederacy allied to the British against the American colonists, local considerations remained of primary importance before the wider struggle. Richard White argues that “[w]hat the pays d’*en haut*, in fact, consisted of until at least the mid-1780s was distinct villages and settlements”.⁹⁷ Throughout the war, it was repeatedly made clear that imperial demands put the British at the mercy of the local political realm. It took continual British prodding, and large volumes of presents to get the peoples of the *pay’s d’*en haut** to continue their war with the Americans. Arguing the point, White points to Henry Hamilton who, in 1778, gave in to some elements of Aboriginal diplomacy in order to secure local peoples alliances with his weak forces against the United States, but censored any that he felt undermined the good order and discipline of the military. These failures to meet the standards that were expected by the local peoples were met with resentment and complaints from the Aboriginal peoples, and ultimately Hamilton was forced to capitulate.⁹⁸ With relatively few troops in the interior, he needed alliances with these Aboriginal peoples to maintain British control over the region, and to counter the actions of the Americans under George Rogers Clarke. Hamilton was thus forced to abide by local expectations and fulfill local demands to unite them against the Americans.

The end of hostilities between Britain and her former American colonies was formalized in 1783 in the Treaty of Paris. Yet, although it ended hostilities between the two principal combatants, the treaty specifically excluded Aboriginal peoples, who therefore remained at war. Although British representatives at the negotiations had attempted to discuss the issue and reach a settlement, representatives of the colonies refused to address the issue. In the interests of

⁹⁷ White. *The Middle Ground*. 367.

⁹⁸ *Ibid.* 373.

reaching a settlement, the British gave in to the demand, and dropped the issue.⁹⁹ Thus, despite the fact that Britain was no longer at war with the newly recognized United States, the confederacy of Aboriginal peoples that had formed alongside her against the United States in the *pays d'en haut* was. Despite the obvious strain that this put on the alliances, they did not break.

The threat posed by the United States continued, only became more immediate after the secession of hostilities between Britain and her former colonies. Although no treaty had been signed concluding the conflict between the United States and the Aboriginal confederacy in the *pays d'en haut*, there was a marked decline in the level of violence on the frontier. Near bankrupt after years of War, the Colonial government did not continue to actively wage war against these peoples. The Confederacy too was indignant that they had been left out of the Treaty of Paris, and powerful factions within the Confederacy advocated the negotiation of a peace with the Americans. In this they were aided frequently by the urgings of officers of the British Indian Department, including Col. McKee through the late 1780s.¹⁰⁰ With some well-respected and highly influential chiefs taking this view, they were able to convince many warriors to stop fighting for the time being to afford them the opportunity to negotiate.¹⁰¹

That said, the conflict did not come to a stop entirely. The ink on the treaty was hardly dry when, in March of 1783, a party of Chickamauga travelled to Detroit to request British assistance in fighting “the rebels”.¹⁰² They were not alone, and throughout 1783, other militant peoples in the Ohio continued fighting the Americans. This was aggravated by the fact that the end of the conflict was accompanied by a surge of Americans seeking free land on the frontier which they could only obtain by taking Aboriginal lands. In addition to these individuals,

⁹⁹ Willig, *Restoring the Chain of Friendship*. 12.

¹⁰⁰ Prior to this, McKee had tried to persuade the peoples of the Confederacy to negotiate a peaceful end to the hostilities with the Americans. In late 1788 however, McKee started arguing for the opposite course of action.

¹⁰¹ White, *The Middle Ground*. 429.

¹⁰² Dowd, *A Spirited Resistance*. 93.

governments were also desperate for Aboriginal land in the *pays d'en haut* after the war. For the near bankrupt American Federal government Aboriginal land was a commodity that could be offered for sale to help pay down the debt accrued during the war. It also offered them a way of compensating those who had served in the armed forces during the conflict.

In the *pays d'en haut*, the American government and its officials possessed no more control over American frontiersmen than Aboriginal chiefs did over the warriors of their respective nations. Americans were also continuing low-level warfare along the frontier, fighting Aboriginal peoples. Understandably indignant at these occupations, Aboriginal peoples pushed back, raiding such frontier settlers, who in turn raided to disrupt the “Indian menace”. Reporting to the Secretary of War Governor St. Clair noted; “Though we hear much of the Injuries and depredations that are committed by the Indians upon the Whites, there is too much reason to believe that at least equal if not greater Injuries are done to the Indians by the frontier settlers of which we hear very little.”¹⁰³ These frontier settlers were joined in their fight by a number of states who, acting outside the authority of the Federal government dispatched state militia forces to fight Aboriginal peoples. Kentucky for example sent militia forces against the neutral Mequashake Shawnee who favoured negotiating with the Americans over continuing the conflict.¹⁰⁴ Thus in reality, there was an ongoing and bidirectional cycle of violence throughout the year kept the situation tense, and relations strained between the parties for which neither alone was to blame. With each side feeling that it had been wronged and needed to fight to defend their interests the peoples on the Frontier were engaged in a cycle of tit for tat violence.

Despite their sincerity, there was little hope for those who favoured negotiating with the Americans. Although the American government could not afford to continue the military

¹⁰³ St. Clair to the Secretary at War, Jan 27 1788, Quoted in: White, *The Middle Ground*. 418.

¹⁰⁴ Dowd, *A Spirited Resistance*. 95.

campaign against the peoples of the *pays d'en haut*, they never the less asserted ownership of the lands on the south side of the Great Lakes by right of conquest. In the Treaty of Paris, the border of the United States was recognized by the British as running through the middle of lakes Ontario, Erie, Huron, and Superior, and from there over as far as the unidentified headwaters of the Mississippi, and from there along the center of the river.¹⁰⁵ On the basis of this the United States claimed these lands as American, as Britain had ceded claim to them. Yet, on the basis of this treaty, they claimed that they possessed full ownership of these lands, and that Aboriginal peoples had no rights to them. Their contention was that the Aboriginal lands of the *pays d'en haut* had been ceded to the Crown by Aboriginal peoples prior to the revolution, and thus, by Britain ceding all claims to these lands to the United States, they were the only true owners.¹⁰⁶ In practice, this meant that the United States refused to consider any agreement with Aboriginal peoples of the Great Lakes that did not recognize their ownership of the full extent of this territory.

Yet, as Richard White has written, “[t]he theory of conquest foundered on the weakness of the new republic.”¹⁰⁷ Lacking the ability to impose this interpretation on the peoples of the *pays d'en haut* in the aftermath of the Revolution, the near bankrupt American Government decided to pay lip service to the Aboriginal peoples and their claims by signing a series of

¹⁰⁵ In the Great Lakes it was agreed in the Treaty of Paris that the border of the United States, as agreed to by Britain would be;

a line drawn... through the middle of said lake [Ontario] until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into Lake Huron, thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior northward of the Isles Royal and Phelipeaux to the Long Lake.

This was to be bounded to the west, “thence by a line to be drawn along the middle of the said river Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude”. Hunter Miller, ed. *Treaties and other International Acts of the United States of America*. Vol. 2. (Washington: United States Government Printing Office, 1931), 153.

¹⁰⁶ Willig. *Restoring the Chain of Friendship*. 15.

¹⁰⁷ White, *The Middle Ground*. 417.

treaties that would also end the ongoing war that was further draining finances. The Government of the United States was in a tricky spot. Heavily in debt and lacking the ability to tax, they needed Aboriginal lands. The United States attempted to make peace with the Aboriginal peoples of the Confederacy and implement their claims to these Aboriginal lands in the *pays d'en haut*, and have them recognized by Aboriginal peoples by concluding a number of treaties with them recognizing their terms. The first negotiations took place at Fort Stanwix in 1784, the site of the far more famous treaty sixteen years earlier. Like its more famous predecessor, the 1784 treaty was concluded with the Haudenosaunee. In effect, it simply recognized the extent of the lands that the Americans claimed. The Treaty of Fort Stanwix was followed the next year by the Treaty of Fort McIntosh with Wyandot, Lenape, Ojibwa, and Odawa representatives. In 1786 yet another treaty was signed, this time with the Shawnee at Fort Finney. In each of these cases the terms of the treaties themselves were not so much negotiated between the parties as dictated by the Americans to meet their needs. All of the treaties recognized the full extent of the land claims made by the United States.

Thus, despite the fact that the war that had precipitated the formation of the alliance with the British and the creation of a wider Aboriginal Confederacy had ended, a threat to the peoples of the *pays d'en haut* remained around which they could organize. Facing this ongoing, indiscriminate aggression by individuals on the frontier outside of the control of the American Government on the one hand, and the Government's inflexible position that Aboriginal lands had been forfeited by right of conquest, the peoples of the *pays d'en haut* remained relatively united. This threat formed the basis of their unity during this period following the end of the American Revolution. It would provide a base on which the peoples of the *pays d'en haut* could unite amongst themselves to an extent not seen before, changing the nature of the Confederacy.

Unity

In the face of the ongoing American threat to Aboriginal lands, efforts began to unite the peoples of the *pays d'en haut* into a more unified Confederacy against the Americans. Aboriginal peoples maintained that the land in the interior remained theirs. In 1785 the peoples of the Haudenosaunee “lighted a Council fire at Buffaloe Creek, expecting that all our western Brethren from every quarter would be present”.¹⁰⁸ They had received word from the United States that they would negotiate with them to secure a treaty, and had subsequently informed the other peoples allied against the Americans. However, as they assembled, they found many of the western peoples to be absent. It was felt however, that “The Business... was a matter of Such high importance to all of us of the Same Colour,” that those in attendance including the Haudenosaunee, “thought it unprecedent and to presumtuous to go on with it, whilst one Single Representative Should be Absent”.¹⁰⁹ They then sent word to other peoples, before reconvening at Wakatomica in May, with Shawnee, Mingo, Lenape, and Cherokee in attendance, at which point they sent word to the Americans that:

According to the Line Settled by our Forefathers the Boundary is the Ohio River, but you are Coming on the Ground given us by the Great Spirit. we wish you to be Strong and keep your people on that side the River... We remind you that you will find us all the people of our colour in this Island Strong, Unanimous, and Determined to Act as one Man in defence of it.¹¹⁰

¹⁰⁸ Copy of the Transactions between the Five Nations & the Western Indians, at there late meeting in the Indian Country, Papers relating to the Western Indians and Indian Affairs at Detroit, Mchilimackinac &c. 1771-1885, RG 10 A3d, Reel C-1224, Library and Archives Canada.

¹⁰⁹ *Ibid.*

¹¹⁰ At Council held at Wakitameka, May 30th. 1785, Papers relating to the Western Indians and Indian Affairs at Detroit, Mchilimackinac &c. 1771-1885, RG 10 A3d, Reel C-1224, Library and Archives Canada.

The warning went unheeded, and the United States continued to push for more Aboriginal land, and made no difference to the “negotiations” at Fort Stanwix and Fort McIntosh.

The peoples of the Confederacy relit the council fire on 18 October, 1786 at the Delaware Village, with the Haudenosaunee, Wyandot, Lenape, Shawnee, and Odawa in attendance. The council was called after two more sweeping land cessions with the United States had been signed with various peoples, and in the wake of a disastrous series of events at their original meeting place when “the Americans fell upon Wakitamiky (Wakatomica) village by surprise, killing some of the Chiefs and Young men, and taking of some men women, and children prisoners”.¹¹¹ This violence occurring despite the signing of two treaties, one each in 1785 and 1786 that had been meant to end the conflict. In council they resolved to “adopt the easiest and most reasonable mode of settling our present discontentments with the Americans [sic].”¹¹² The issue had been discussed previously by some of those in attendance, principally the Haudenosaunee and Wyandot, at a previous council held at Sandusky. In council at the Delaware Village, the Confederacy largely reaffirmed the adoption of concepts that had previously been agreed to at Sandusky. Foremost was the idea that “when Anything of importance requires our exertions that they may be general and united [sic].”¹¹³ Thus, they forged a more unified Confederacy. Whereas previously, the peoples of the confederacy had been generally united against the United States, the adoption of this concept required that all-important business of a nation required the consent of the others. The Confederacy then proceeded to appoint deputies who were to act as speakers on their behalf, “to go to all the nations both Southward and Westward to make them acquainted with our resolutions, and to require them to be in readiness and to assemble by the

¹¹¹ *Ibid.*, 166.

¹¹² *Ibid.*, 169.

¹¹³ *Ibid.*, 170.

time appointed, to defend themselves & their rights if necessity requires".¹¹⁴ If necessity required, they would take steps to defend themselves and their lands by attacking the Americans.

Extinguishing the council fire at Detroit, the peoples in attendance resolved to rekindle the council fire once again, with more nations in attendance so that they could determine a course of action. On the 18th of December the council fire was relight at the Wyandot Village of Brownstown, near Detroit. Those who would congregate at Brownstown included the Haudensonee, Wyandot, Lenape, Shawnee, and Odawa who had been present at the previous council fire at the last council, as well as Miamis, Ojibwa, Potawatomi, and refugee Cherokee.¹¹⁵ With more nations assembled, they affirmed their acceptance of the same principles of unity that had been discussed in October. On affirming the adoption of these ideas, they then proceeded to actualize this, sending a letter to the Congress of the United States outlining the principles that had been agreed, and demanding that the United States treat with the Confederacy as a whole rather than with individual peoples.

Although the Confederacy as a whole had come to a decision about the way forward, and a framework for unified action, they remained a collection of peoples than a unified confederacy. In many ways it was still a collection of many actors each pursuing their own interests. The Chiefs of the Confederacy were unable to compel individuals from their own peoples or others to take specific action. They relied purely on their powers of persuasion and mutual agreement to determine the course of events. This was plainly evident in the turmoil of the 1780s. Although many chiefs hoped to reach an acceptable peace with the new United States through diplomatic negotiation, and ultimately a treaty, many of the warriors remained convinced by the actions of the American frontiersmen that the only way forward was to continue to fight. The Chiefs of the

¹¹⁴ Indian Council, Detroit, 24 December 1786, in *Collections and Researches made by the Pioneer and Historical Society of the State of Michigan*, Vol. XI (Lansing: Thorp & Godfrey, 1888), 471.

¹¹⁵ White, *The Middle Ground*, 441.

confederacy were able to convince the warriors to hold off their planned raids for the time being to prevent a violent incident from interfering with the process. They were not however, able to do so indefinitely, and if negotiations did not take place by the spring, raids against the Americans would continue.¹¹⁶

These calls for unity amongst the peoples of the Confederacy, and for acting as a whole rather than disparate parts, was not limited to dealings with the United States. Six days after the conclusion of their Council at Brownstown, representatives of the Confederacy travelled the short distance to Detroit, to meet with Col. McKee in his role as the Deputy Indian Agent. In council at Detroit they requested that the British clarify their position in relation to the Confederacy, and their ongoing conflict with the Americans. Presenting their position as a unified body, they demanded that the British also respond to them as such, rather than conduct relations with individual peoples of the Confederacy separately.¹¹⁷ This marked a progression in their push for more formalized relations with the British. At the council in October the Haudenosaunee under Brant had requested that the Wyandot remove themselves from Detroit and the immediate presence of the British, and politically reorient themselves around Brownstown.¹¹⁸ This they had accomplished by December when the council fire of the Confederacy was rekindled there.

By the end of 1786, the peoples of the *pays d'en haut* were united in a Confederacy specifically to resist the threat posed by the newly independent United States. This united Confederacy differed from the alliance that had emerged during the American Revolution in that

¹¹⁶ Indian Council, 24 December 1786, in *Collections and Researches made by the Pioneer and Historical Society of the State of Michigan*, Vol. XI, 471.

¹¹⁷ *Ibid*, 470-471.

¹¹⁸ "Copy of the Transactions between the Five Nations & the Western Indians, at there late meeting in the Indian Country", Papers relating to the Western Indians and Indian Affairs at Detroit, Mchilimackinac &c. 1771-1885, RG 10 A3d, Reel C-1224, Library and Archives Canada.

it was less intimately connected to the British, and the alliance with them. Instead, it revolved more around the threat posed by the United States.

Chapter 2: The Treaty of Fort Harmar, 1789

The unity of the Confederacy, and their resolve to protect Aboriginal lands was put to the test in the winter of 1788-1789. After a year of petitioning the American Government to meet with them in an effort to finally bring about an end to the conflict between the Western Aboriginal Nations and the United States that had been excluded from the Treaty of Paris concluding the American Revolution, they were finally able to meet in a council in December and January of the Winter of 1788-89. From this council held under the guns at Fort Harmar, there emerged two controversial and divisive treaties that ultimately prompted the escalation of the conflict in the *pays d'en haut* rather than stop it.

The disastrous failure of the treaties of Fort Harmar in 1789 is crucial in understanding geopolitics in the *pays d'en haut* in 1789-1790. The fallout from these treaties shaped the environment in which the McKee Treaty was signed a year later. The treaties themselves were born of factionalism within the Aboriginal Confederacy, continuing a long tradition of treaty-making between Americans and some peoples of the *pays d'en haut*. The fallout from the signing of the treaties however, clearly demonstrates the power of the Confederacy as a force to protect Aboriginal land and attempts to maintain unity against external threat. In doing so, these treaties made it clear that the Confederacy was committed to the principle of collective ownership.

The Concept of Collective Ownership

The council held at the Detroit Wyandot village of Brownstown in 1786 was highly important in the history of the Confederacy because it marked the adoption of a number its' central tenants. Of particular importance to this discussion was the adoption of the concept of common ownership. Prior to the adoption of this policy, individuals had protested that they did

not possess the authority to make the sweeping land cessions that the American demanded. At Fort Stanwix in 1784, Joseph Brant stated that, “we must observe to you, that we are sent in order to make peace”, furthermore, “we are not authorized, to stipulate any particular cession of lands”.¹¹⁹ Despite such protests, the Americans insisted on concluding land cessions with the boundaries they set, and they came away with signed treaty documents that recognized the surrender of the full extent of the land that they had demanded. Opposition during these land cessions was based on the fact that the Aboriginal peoples in attendance had arrived for the purpose of negotiating peace, not land surrender. They did not have the authority from their respective First Nations to negotiate territory. Regardless of their protests, the Americans forced the Aboriginal people in attendance to sign the land cessions. Consequently, the concept of universal ownership that was formalized at the council in 1786 was a direct response to these treaties.

The Indigenous people sent as representatives to meet with the Americans on behalf of the Confederacy rejected the Treaties of Fort Stanwix and Fort McIntosh, although the Americans insisted they were valid. In response to the threat that such treaties posed to the land base of the peoples of the *pays d'en haut*, it was agreed that action needed to be taken to prevent similar treaties in the future. Reflecting on the past, the Haudenosaunee argued;

Take but a cursory view of that large tract of Country between our present habitations & the Salt water, inhabited by the Christians; and consider the reason why it is not still inhabited by our own colour- It is certain that before Christian Nations visited this Continent, we were the Sole Lords of the Said? We were the Lords of the Said, the great Spirit placed us there! and what is the reason, why we are not still in possession of our

¹¹⁹ Captain Brants Account of What passed at Fort Stanwix Prior to the Treaty in October 1784, Frontier Wars Fonds, Vol.23, Draper Manuscript Collection, Wisconsin Historical Society.

forefathers birth Rights? you may safely say because they wanted that unanimity which we now so Strongly and repeatedly recommend to you [sic].¹²⁰

They therefore proposed that the Confederacy have;

unanimity in our Councils on matters that concern us all, if we make a war with any Nation, let it result from the great Council fire, if we make peace, let it also proceed from our unanimous councils but whilst we remain disunited, every inconvenience attends us. The Interests of Any One Nation should be the interests of us all the welfare of the One should be the wellfare of all the others [sic].¹²¹

Ultimately the suggestion was adopted by the council, thus requiring that the consent of all of the Confederacy, and not just the people who occupied a particular parcel of land were required to consent before that land could be ceded.

The effect of this was that they asserted a principal of common ownership of all Aboriginal lands held by the First Nations of the Confederacy. This did not mean that they understood everyone's stake in all territory of member communities within the Confederacy to be the same. They continued to recognize different rights of use to specific land held by different communities. Rather, independently of rights to usage and occupation belonging to individuals or communities, the Confederacy at large held an interest in all Aboriginal lands. Without the acquiescence of all peoples of the Confederacy, treaties were to be held invalid and non-binding.

As they made clear in their letter to the Congress of the United States in 1786, this was to form not only the basic framework for future treaty-negotiations, it was also to be retroactive. The Confederacy specifically rejected the 1784 Treaty of Fort Stanwix and the Treaty of Fort

¹²⁰ Copy of the Transactions between the Five Nations & the Western Indians, at there late meeting in the Indian Country, Papers relating to the Western Indians and Indian Affairs at Detroit, Mchilimackinac &c. 1771-1885, RG 10 A3d, Reel C-1224, Library and Archives Canada. Underlining in original.

¹²¹ *Ibid.*

McIntosh (1785). In doing so, they asserted that those in attendance did not have the authority to speak and act on behalf of all of the people involved, or even for the entirety of their own First Nations. Instead, they requested that the Americans meet them to negotiate a new treaty with all of the people of the Confederacy to end the dispute between them. This position was clearly stated in a letter from many chiefs of the Confederacy to the American Governor St. Clair in 1788. In pursuit of peace, they made an offer to meet in council:

as we cannot think of going further unless the offer we now make you is agreed to, — this is our last and full determination it being what was agreed upon By the Confederate Indian Nations that were lately Assembled at the Miami River, and for the true performance of which, We the Haudenosaunee and Wyandots will be responsible as any Agreement that is now made is by the consent of the Confederacy, and differs widely from the Councils held by the Gen^l. [Butler], which was only with a few nations and those not authorized to transact any Business which Concerned the whole, therefore any thing that was done with him we lay aside, as we cannot agree to abide to the unreasonable demands that were made by him & agreed to by those few who Attended, and it must have been well known would never meet with the concurrence of all of us.¹²²

This letter with the Americans reaffirmed the Confederacy's commitment to the principal of collective ownership, clearly articulating their position that any land cession treaty that was to be concluded for any of their lands required the assent of the entire Confederacy. Furthermore, should any such surrender not include the consent of the entire Confederacy be concluded, they would refuse to recognize their legitimacy.

¹²² Address of the Chiefs of the Six Nations and Western Confederacy to Governor St. Clair 19th, Nov^r, 1788 Against the Muskingeon Treaty, Frontier Wars Fonds, Vol. 23, Lyman Draper Manuscript Collection, Wisconsin Historical Society.

The Council at Fort Harmar

The restatement of their position in early 1788 was necessary because of the profound delays that dogged the process of treating with the Americans. For some unknown reason the letter that had originally been sent to Congress by the Confederacy in December 1786 did not arrive in Washington until 18 July 1787. Well past the date that they had anticipated for a spring council with the Americans, the chiefs of the Confederacy who were in favour of negotiating with the Americans were unable to restrain the warriors from launching raids along the frontier.¹²³ The continuation of these raids predictably led to a frontier conflict that enraged the Americans and threatened any negotiations. In response to the delays and the deteriorating situation, the council fire of the Confederacy was relit in early 1788, and they resolved that the Confederacy would reaffirm their desire to treat with the Americans. In light of the changed situation however, the Confederacy chiefs amended their earlier proposals to the Americans. At this point they offered to cede a tract of land to the Americans during the proceedings with the hope that this would quell the hostilities between them. Although they did not want to surrender land to the Americans, the chiefs believed that they had no chance of making peace with them if they outright refused. The proposal was, therefore, presented with the intent of using a smaller more acceptable cession to bring about an end to the conflict.

With American officials in the Northwest possessing no more control over American settlers than the Confederacy chiefs, Aboriginal warriors were not solely to blame for the tension between the Americans and the Confederacy as they attempted to negotiate a peaceful settlement. Nor were the endless delays of the American Government. This situation came to a head in July of 1788 when two separate attacks on American troops on the frontier claimed the

¹²³ White. *The Middle Ground*. 443.

lives of fifteen soldiers. In response to this, St. Clair demanded that if any council were to be held, it would be held not at the home of the Confederacy's council fire, but under the guns of Fort Harmar.¹²⁴ By removing the council to Fort Harmar from the Muskingum location, the Americans were deliberately making a move to seize power over the proceedings. Putting Aboriginal peoples at a disadvantage, it gave the Americans a significant amount of control over the situation. However, in removing the meeting from the seat of the Confederacy's fire, this relocation to Fort Harmar also served to isolate the chiefs in attendance from the rest of the Confederacy. The acquiescence of all peoples of the Confederacy to the agreement would be essential for its validity to be upheld. Consequently, this move proved crucial to the conclusion of the Treaty of Fort Harmar and the signing of an agreement. Despite these challenges, the Confederacy reaffirmed its willingness to meet the Americans in council, even if it did require them to travel to the Americans on the Ohio River.¹²⁵

In November, the Americans once again sent word to the Confederacy to discuss a treaty. After having received instructions from Congress, Governor St. Clair was under explicit orders that the land he acquired through the treaty process not to deviate from existing treaties "unless a change of boundary beneficial to the United States" could be obtained.¹²⁶ In response, he conveyed this position to the Confederacy, asserting that any treaty that did not recognize the full extent of the existing cessions would be unacceptable to the United States.¹²⁷ Therefore, although the United States had changed its' position, and was now willing to pay for land that it claimed by right of conquest following the American Revolution, they had no intention of engaging in

¹²⁴ White, *The Middle Ground*. 444.

¹²⁵ Address of the Chiefs & of the Six Nations and Western Confederacy to Governor S^t Clair 19th, Nov^r. 1788, *Frontier Wars Fonds*, Vol.23, Draper Manuscript Collection, Wisconsin Historical Society.

¹²⁶ Calloway, *the Victory With No Name*, 58.

¹²⁷ White, *The Middle Ground*. 445.

any negotiations that may have been acceptable to the peoples of the Confederacy.¹²⁸ Instead, they asserted that the only acceptable option was the reaffirmation of the existing treaties that were considered totally unacceptable by the Confederacy's peoples. Upon receipt of the message, all hopes for the successful conclusion of a treaty collapsed. Joseph Brant, one of the chiefs who had been most supportive of a treaty, immediately ended all plans to treat with the Americans and resolved to return home "by way of Detroit", along with the Shawnee, the peoples from the Wabash river, the Delaware, and some Wyandot.¹²⁹

Following his decision to turn back, and not meet with the Americans for what was now almost certainly a pointless exercise, Joseph Brant sent word to St. Clair gently stating their position that:

Agreeable to our expectations we have met the Shawnese, Delawares, Muncses and Mingoes have communicated the purpose of your speches to what we sent in behalf of the Nations that were lately assembled at the Miamis rapids. They are of the same opinion with us that nothing more can be done, than what we have offered, at least untill such time as the whole of the Confederacy is made acquainted, as any thing that we might as individuals do, would be paid little attention to by the whole, as no business of consequence is to be transacted without the Unanimous Consent of all Concerned [sic].¹³⁰

Thus reaffirming once again the principle of collective ownership, he reiterated the necessity of the unanimous consent of all communities of the Confederacy for the conclusion of an

¹²⁸ The idea that the lands that they were negotiating over had been ceded to the United States by the British in the Treaty of Paris formed the crux of the argument that Governor St. Clair advanced in council on January 6th, Ebenezer Denny. *Military Journal of Major Ebenezer Denny, An Officer in the Revolutionary and Indian Wars*. (Philadelphia: J. B. Lippincott & Co., 1859), 129.

¹²⁹ White, *The Middle Ground*, 445.

¹³⁰ Brant to St. Clair, 8 December 1788, Frontier Wars Vol. 23, Lyman Draper Manuscript Collection, Wisconsin Historical Society.

acceptable land cession that would be honoured by all of the Confederacy's peoples. It should have served as a warning to the Americans that their plans would not meet with the acceptance of the Confederacy, and would therefore achieve nothing productive if they proceeded with them un-amended.

Black Wampum

Brant had not been able to convince all of the representatives of the Confederacy to turn back with him and refuse to meet the Americans in council. Despite the American's letters to them stating their position, some remained hopeful that a compromise could be reached that would permit a peaceful resolution to the hostilities. In the end, about two hundred Wyandot, Seneca, Tawa, Pottawatomi, Ojibwa, and Soc made the journey to Fort Harmar to treat with the Americans.¹³¹ Although they clung to the hope that they would be able to reason with the Americans, their hopes were not well founded. For their part, the Americans were not under any similar illusions and had no intention of negotiating with the Aboriginal peoples of the Confederacy. St. Clair's orders regarding the negotiations with the Confederacy effectively required him to dictate terms to them that they had already dismissed and deemed unacceptable. Thus, the treaty was doomed to failure from the start.

To add insult to injury, the United States also refused to deal with the Confederacy as a single political entity. Instead, the Americans insisted on concluding two separate treaties, dealing with what they asserted were two separate issues. One would be concluded with the Haudenosaunee and deal with their more easterly lands. The other would deal with the more westerly lands of the rest of the peoples of the Confederacy that had previously been surrendered

¹³¹ Denny, *Military Journal of Major Ebenezer Denny*. 127.

in the Treaties of Fort Stanwix, Fort McIntosh, and Fort Finney.¹³² Thus, the Americans attempted to subvert the political entity whose approval would be necessary to confirm the Treaty and its ability to actually achieve its aims.

The United States did attempt to meet the expectations of the Confederacy on one front—Wampum. As discussed previously, gift-giving was a central part of life in the *pays d'en haut*, and crucial in relationships. Wampum was the gift of choice in diplomacy. Presented in the form of simple strings or more elaborate woven belts, Wampum beads were traditionally found in two colours white and purple. Traditionally fashioned from shell, white was obtained from the North Atlantic channelled whelk, and purple from the quahog. These natural beads, which were produced by the Indigenous peoples of Long Island, were later supplemented by Italian made glass beads. Although other goods could be used as gifts in place of wampum, to seal and affirm an agreement, the exchange of wampum, and specifically belts, were standard practice at treaty councils among the peoples of the *pays d'en haut*.¹³³ In the Great Lakes region, words spoken at treaty councils had little meaning unless they were accompanied by wampum. Failure to provide it implied that the words spoken might simply be coming from the mouth and not from the heart. In other words, it implied that the speaker could not be trusted. As a gift, wampum could serve as an aid to memory and storytelling, as well as a record of a treaty.

During treaty council proceedings an Aboriginal speaker would often lay out wampum strings or belts in front of him before beginning. Then as he spoke, he would emphasize each point or paragraph by picking up a string or belt to affirm the sincerity of the words that he spoke. This was then laid at the feet of the individual being addressed, acceptance of the

¹³² William Henry Smith, ed. *The St Clair Papers: The Life and Public Services of Arthur St. Clair Soldier of the Revolutionary War; President of the Continental Congress; and Governor of the North-Western Territory with his Correspondence and other Papers*. Vol.II. (Cincinnati: Robert Clarke & Co., 1882), 113.

¹³³ Calloway, *Pen and Ink Witchcraft*, 26.

wampum indicated that the message with which it was associated would be considered, and that there would likely be a positive answer.¹³⁴ At the council at the Delaware Village for example, Haudenosaunee War chiefs, after stating their positions to those assembled, concluded, “Here is our belt to confirm our words.”¹³⁵ This was then repeated by every subsequent speaker. Failing to provide the expected wampum was flirting with failure, and was roughly analogous to failing to sign a written treaty in the European treaty-making tradition.

Wampum, and gifts more generally, were key in serving as a record of agreements, similar to written documents. After the council fire was extinguished at the Delaware Village, they determined “that all the belts we have now spoke upon shall proceed from this council fire to the different Nations and return to the Shawanese as they live the most central.”¹³⁶ The purpose of this was to inform those in the communities that they travelled to about the messages that were spoken in the council. They would inform them of the agreement that had been reached by representatives of the nations that met at the Delaware Village. Their storage with the Shawnee would continue to serve as a record of the agreements that had been made.

It has been noted that at the time of the treaty, St. Clair lacked access to white wampum and was thus forced to use black wampum to provide wampum to seal the agreement.¹³⁷ The colour traditionally associated with war, black wampum was unsuited to the sealing of an agreement of peace between the peoples in attendance and the United States. Despite this undeniable truth, the effect that this could ultimately have on the treaty is negligible at best. The nature of the agreement that the Americans insisted on was so egregious, that killing

¹³⁴ Giles Havard. *The Great Peace of Montreal of 1701: French-Native Diplomacy in the Seventeenth Century*. Translated by Phyllis Aronoff & Howard Scott. (Montreal & Kingston: McGill-Queen’s University Press, 2001), 23.

¹³⁵ The belt that they presented is described in the text simply as “A Large Belt.” No comment is made regarding the woven pattern, if any. “Copy of the Transactions between the Five Nations & the Western Indians, at there late meeting in the Indian Country”, Papers relating to the Western Indians and Indian Affairs at Detroit, Mchilimackinac &c. 1771-1885, RG 10 A3d, Reel C-1224, Library and Archives Canada.

¹³⁶ *Ibid.* 172.

¹³⁷ White, *The Middle Ground*, 446.

representatives in attendance remained one of the few ways that they could have made the situation worse. Really, the use of black wampum by St. Clair to seal the treaty at Fort Harmar served as a poignant symbol of the agreement in its entirety. The conditions brought forward by the Americans had been rejected by the Confederacy as a whole, and as Brant had warned when he had returned home, they abandoned the talks. There was no way that the cession that St. Clair demanded would be accepted, as the cession of the same lands had provoked the council in the first place.

The result, unsurprisingly, were agreements that quickly became utter failures. The provisions of the treaties were so distasteful that they failed to secure the support of all the Confederacy chiefs who attended the council at Fort Harmar. Among these was the Wyandot chief T'Sindatton, who Richard White has called "the most creative of the Indian negotiators trying to reach a new accommodation on the middle ground."¹³⁸ By the end of the council, he had become so disheartened with the agreement that he refused to sign the treaty. Those who did sign it, were mostly junior chiefs, making their first appearance at a treaty signing and thus lacking the respect required to negotiate on behalf of their communities.¹³⁹ Although they may have been desirous of peace, the majority of those who signed the Treaty of Fort Harmar did not have the authority to negotiate the surrender of land in exchange for peace. Many of the most important chiefs from the nations of the Confederacy had simply refused to attend, turning back with Brant before the start of the treaty council. Many representatives from the Wyandot and Odawa Nations of Detroit, for instance, attended the council at Fort Harmar, but the most important leaders did not. Among the Nations of Detroit alone, Sastaritsie, a principal Chief of the Wyandot Nation, and Egushwa, a man who frequently played the role of a major spokesman

¹³⁸ *Ibid.* 446

¹³⁹ *Ibid.* 446.

for the four Nations of Detroit, were notably absent, having also turned back with Brant before the start of the council.¹⁴⁰ This lack of proper representation only further undermined the agreement for the Confederacy.

Predictably, when the news of the treaty and its provisions reached the First Nations of the Confederacy, the black wampum was an apt marker of its reception. Expressing the general perspective of the treaty in the summer of 1789, one chief stated:

We now declare that we mean to adhere Strictly to the Confederacy by which only we can become a people of Consequence, and are sorry to say that Some of us have done Wrong in Attending the American Council last fall, we are United & must turn our faces to those encroachers. The Lands belong to us all equally and it is not in the power of one or two Nations to Dispose of it [sic].¹⁴¹

The Confederacy quickly mobilized to oppose it, and rejecting its validity out of hand. The Shawnees in particular were outraged when they heard the provisions of the treaty. Indeed, upon learning of the treaty's terms that affirmed earlier land surrenders, the Shawnee sent out war belts to the other nations of the Confederacy to resume the war that had been on hold during the

¹⁴⁰ Sastaritsie was a hereditary name among the Wyandot people. John Steckley states that, "Sastaretsi was the name of the person who could be called the Grand Chief of the Wyandot. He was leader as well of the Deer clan and the Deer phantry". This, he goes on to note, meant that "[i]t was rather like he was a mayor, a provincial premier, and a prime minister all in one. John L. Steckley. *The Eighteenth-Century Wyandot: A Clan-Based Study*. Indigenous Studies Series, edited by Deanna Reeder. (Waterloo: Wilfrid Laurier University Press, 2014), 52. At least the fourth individual to hold the name, the Sastaritsie who signed the McKee Treaty in 1790 lived near modern Gibraltar Michigan, across the channel from the southern end of Gross Ile. Greg Curnoe. *Deeds/Nations*. Edited by Frank Davey & Neal Ferris. Occasional Publications of the London Chapter, Ontario Archaeological Society Inc., Publication No. 4. (London, ON: Ontario Archaeological Society Inc., 1996), 113. Egushwa, appearing as Egouch-e-ouay on the McKee Treaty, was an important Odawa war chief from the Detroit region, where he became prominent as a successor to Pontiac. At the time the McKee Treaty was signed Egushwa was a prominent and influential figure not only in the Detroit region, but across modern Michigan, and down on the Maumee River. Reginald Horsman. "Egushwa (Agashawa, Augooshaway, Negushwa)". In *Dictionary of Canadian Biography*, vol. 4. University of Toronto/Université Laval, 2003. http://www.biographi.ca/en/bio/egushwa_4E.html. At the Public Treaty council following the McKee Treaty Egushwa was the principal speaker, and spoke on behalf of the Ojibwa, Pottawatomi, and Odawa. See Appendix B.

¹⁴¹ This passage and the subsequent eloquent demand that the Seneca explain their part in the treaty, highlight the tension within the Confederacy that were evident in 1789 after the disaster at Fort Harmar. Proceedings of a Council Held at Buffalo Creek between the Five Nations and the War Chiefs of the Cherokee and Shaeanese Indians 7th September 1789. Frontier Wars Fonds, Vol. 23, Draper Manuscript Collection, Wisconsin Historical Society.

talks.¹⁴² Intending that they be circulated among all of the nations of the Confederacy, they were issuing a general call to arms to wage war against the Americans. They followed up with these threats during a council with members of the Confederacy a few months later.

In addition to the war belts, they also took one more dramatic step. A delegation was also sent to the British at Detroit with the intention of presenting a war pipe to the commanding officer, calling the British to openly join in a war against the United States.¹⁴³ The effect of the successful delivery of the war pipe could have been transformative, as it would have forced the British to choose between maintaining their necessary alliance with the Confederacy and going to war with the United States, or losing the basis of their defence of what remained of British North America.

In the end, it was only the efforts of Alexander McKee and a number of chiefs Confederacy chiefs that prevented all-out war on the frontier between the British and Aboriginal people on the one hand and the United States on the other, as a result of this treaty. Before the delegation was able to meet with the commander at Detroit and present him with the war pipe, McKee met privately with an influential chief and managed to keep the delegation from presenting the pipe.¹⁴⁴ Thus, the principle of collective ownership, and the failure of subsequent treaties to satisfy all communities within the Confederacy led directly to the continuation and intensification of hostilities in the Southern Great Lakes between the Confederacy and the United States.

Transformations

¹⁴² White. *The Middle Ground*. 447.

¹⁴³ Lord Dorchester to Lord Sidney, 25 June, 1789. in *Collections and Researches made by the Pioneer and Historical Society of the State of Michigan*, Vol. XII, (Lansing: Thorp & Godfrey, 1888), 10.

¹⁴⁴ White. *The Middle Ground*. 446.

The resulting conflict between the United States and the Confederacy has been frequently referred to as the “Northwest Indian War.” Yet, although the two Treaties of Fort Harmar may have prompted an escalation of the violence in the *pays d’en haut*, they did not initiate it; the conflict having never totally subsided. It is therefore best conceived as ushering in a new, more intense phase of the war. Despite this, it was nevertheless transformative. It had sweeping effects on the politics of the *pays d’en haut* and transformed the nature of relationships between its peoples. The mess at Fort Harmar was first and foremost responsible for escalating the conflict between the Confederacy and the Americans, while in addition it also prompted radical changes within the Confederacy itself and altered the power dynamics within it with the faction that had been in favour of negotiations with the Americans largely discredited. Finally, the two treaties signed at Fort Harmar, along with the negotiation process clearly demonstrate the importance the Confederacy placed on the concept of universal ownership during this time period..

Chapter 3: The McKee Treaty, 1790

At the conclusion of the Treaty council at Detroit in May, 1790, the British secured ownership of the lands stretching from Long Point to the Detroit River south of the Thames. In stark contrast to American attempts to do the same on the other side of the Great Lakes, the British did not just leave the treaty council with a signed piece of paper. Rather, they left with an agreement that was recognized by the Aboriginal people of the *pays d'en haut* and their acceptance of non-Aboriginal settlement on those lands. Where the Americans failed, the British succeeded. This chapter examines this success through the McKee Treaty, and argues that in addition to the British and the First Nations of Detroit, the people of the Confederacy more generally were also part of the agreement that was finalized at the council at Detroit.

According to the written treaty document, the signatories represented the “principal Village and War Chiefs of the Ottawa, Chippawa, Pottowatomy and Huron Indians Nations of Detroit”¹⁴⁵ The document states that the agreement was one between the Crown and these four First Nations. Although, as at most treaty councils, there were likely a number of people gathered at Detroit that did not sign the final written treaty, most, if not all, hailed from the four First Nations who did sign. Certainly no mention of individuals from further afield is made in the documents relating to the negotiations and the conclusion of the treaty at the time. Although far from definitive, this strongly suggests that there was not a significant number in attendance who had travelled from outside the Detroit area. Yet, despite the fact that this complements the treaty document’s text that lists only the four nations of Detroit as parties to the treaty, it does not tell the whole story.

¹⁴⁵ “No.2” in *Indian Treaties and Land Surrenders*, Vol. 1: 1-2.

A Treaty Council at Detroit

With the Land Board demanding territory, and suitable orders having been issued to Col. Alexander McKee to facilitate a cession, a treaty council convened at Detroit for that purpose. The Royal Proclamation of 1763 specified that all lands “shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly of the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively.”¹⁴⁶ Because of this clause in the Royal Proclamation, the Aboriginal lands that the Land Board wanted had to be acquired from the Aboriginal peoples in a public council held for that purpose by a servant of the Crown. This much could theoretically have taken place at a First Nation settlement. The requirement that “Governor or Commander in Chief of Our Colonies” preside, however, was more challenging to accommodate. The officer commanding the garrison, Maj. Murray of the 60th Foot, was the most senior military or civilian official at Detroit, and the area west of Niagara. Although he could, and would, preside at the public council with the officers of the garrison witnessing, the nature of the duties of these men required the council to be convened at Detroit. McKee, therefore, requested that the peoples of Detroit assemble at that post for the treaty council. Unlike the Americans who had demanded that a council be held under the guns of Fort Harmar a year and a half before, McKee requested the local people gather at Detroit rather than an Aboriginal settlement.

Interestingly, the negotiations surrounding the conclusion of the McKee Treaty are far less documented than those at Fort Harmar and other treaties of the period with both the British and Americans. It is nonetheless possible to reconstruct the series of events using what material survives. The council at which the treaty was signed was held on the 19th of May, 1790 at British

¹⁴⁶ “1763, October 7. [Establishing New Governments in America.]”, in *British Royal Proclamations Relating to America*. Vol. 12. 217.

Detroit. Present were at least thirty-five Chiefs of the Odawa, Ojibwa, Potawatomi, and Wyandot Nations of Detroit. This day, however, saw relatively little negotiation as many of the details had already been settled upon.

May 19th marked the end of two partial days of discussion of the treaty. The assembly of the peoples of Detroit at the town was complete by the 18th of the month when the last of the Wyandot representatives arrived. With their arrival, McKee and the chiefs worked through some other business of importance, unrelated to the cession of land.¹⁴⁷ Once these details were complete, attention turned to discussion of the treaty. At this point McKee and the Officers of the Indian Department left the Aboriginal peoples in attendance alone to “Consult with each Other respecting the purchase of Land.”¹⁴⁸ Reconvening on the 19th, and finding that they had not reached consensus on the treaty amongst themselves, McKee sat in with the chiefs to negotiate the final terms of the agreement in an additional private council. They emerged from this council with the terms of the cession decided. From there they proceeded to the Council Chamber where a public council was held to conclude the treaty and those in attendance signed the written treaty document.

The final conclusion of the treaty would have to wait until the next day as the “day being too far advanced to accomplish it.” Consequently, they reconvened and signed the treaty. Later, on the 20th, the peoples of Detroit and McKee, along with some of the officers of the garrison,

¹⁴⁷ Discussing this business, McKee noted in his journal documenting the Indian Department activity at Detroit, that “Some Huron Chiefs arrived and a Meeting was held with them in presence of the Lake Indians, where the Kings Medal was Confered at their own particular desire On One of their Chiefs who was appointed to fill the place of their Great Chief Susterage, whose name he assumed.” Extract from the Journal of Indian transactions at Detroit Kept by Alexr. M^c.kee Esq. Deputy Agent from the 18th to the 22nd of May 1790, 16 November 1829, Office of the Deputy Superintendent General of Indian Affairs: Correspondence, 1789-1830, Reel C-11014, Library and Archives Canada.

¹⁴⁸ *Ibid.*

assembled for the distribution of £1,179 13s. 9d. Quebec currency worth of goods.¹⁴⁹ These “gifts” received by the Peoples of Detroit in exchange for their lands served to seal the treaty for these First Nations; similar to the signing of the written document for the British the night before. The First Nations then spent the next day on the 21st distributing these gifts amongst themselves.¹⁵⁰ The remaining value that the Peoples of Detroit were owed, to the value of £20 6s. 3d. Quebec currency, was distributed to them on the 22 May, when McKee provided them with a bullock and 39 gallons of rum for a feast to conclude the treaty council.

These few days (two partial days) to decide the final terms and sign the agreement do not represent the full extent of the treaty negotiations. In reality, the bulk of the negotiations actually took place well in advance of this council. On 5 May 1790, McKee reported that he had just returned from “a Tour into the Indian Country, where I went some time ago to sound and collect the Indians on the South side of the Lake, concerned in the purchase to be made from them of Land.”¹⁵¹ It was during this journey that most of the negotiations regarding the Treaty were conducted. Having conducted no further extensive negotiations with Aboriginal peoples, McKee was able to report on the 14th, at a meeting of the Land Board for the District of Hesse at Detroit, that “the purchase from the Indians would probably be completed within a few days.” At this

¹⁴⁹ *Ibid.* It is possible that only £1,126 11s. 4d. worth of goods were distributed to the peoples of Detroit on the 20th. In his Post Journal McKee noted on the 22nd of May that “I delivered them a Bullock and some Rum to make a Feast as Customary on such Occasions”. He makes no mention of any other goods being distributed to the peoples of Detroit on this date, and thus I exclude only their value from the total distributed on the 20th of May. However, in the list of the goods distributed to the signatories of the treaty that is attached to T. Smith’s copy of the Treaty from the 22nd of June the rum and bullock are followed by four non-food and drink items that were distributed to the Peoples of Detroit. This is notable because these six items form a separate grouping below the rest, and follow a working out of the value of everything in both Quebec currency and Pounds Sterling, excluding these six items and not just the bullock and 39 gallons of rum. This separation, with a tally of the value of goods distributed followed by six more items suggests that the four items that follow the rum and bullock may have also been distributed on the 22nd of May when the feast was held, and not on the 20th. A transcript of the treaty including the full list of goods is reproduced in Appendix A. Extract from the Journal of Indian transactions at Detroit, Reel C-11014, Library and Archives Canada.

¹⁵⁰ *Ibid.*

¹⁵¹ Col. McKee to Sir John Johnson, May 5th, 1790. in *Collections and Researches made by the Pioneer and Historical Society of the State of Michigan*, Vol. XII (Lansing: Thorp & Godfrey, 1888), 24.

point all he was waiting for was the Peoples of Detroit to gather at the town, so that they could finalize and conclude the treaty.¹⁵²

“A Tour of the Indian Country”

Throughout the winter of 1789-1790 and spring of 1790, McKee continued to work closely with the Confederacy, actively managing Britain’s relationship with them. This relationship would serve as the basis of the Treaty. In the spring of 1790 McKee made his final visit to the south, where the majority of First Nations of the Confederacy resided. Returning to Detroit at the beginning of May, McKee wrote to his superior Sir John Johnson on the 5th, reporting that “I am but a few days returned from a Tour into the Indian Country, where I went some time ago to sound and collect the Indians on the South side of the Lake, concerned in the purchase to be made from them of Land.”¹⁵³ It is unclear who McKee was visiting with on this trip, but he almost certainly met with the Odawa while touring the country. Concentrated at the mouth of the Maumee River, their villages were on the south side of the lake. McKee also indicates in his journal that he took part in a council during that time.¹⁵⁴

It is unclear who else McKee may have been speaking with in regards the treaty on this trip, but the lack of any evidence of opposition to the McKee Treaty, and their earlier insistence that the British negotiate with them as a united confederacy suggests that the McKee consulted with the First Nations the Confederacy more generally, and not just with the nations of Detroit, before concluding the treaty.

¹⁵² “District of Hesse, Land Board, 14 May, 1790” in *Third Report of the Bureau of Archives for the Province of Ontario*. Edited by Alexander Fraser (Toronto: L.K. Cameron, 1906), 8.

¹⁵³ Col. McKee to Sir John Johnson, 5 May 1790, in *Collections and Researches made by the Pioneer and Historical Society of the State of Michigan*, Vol. XII (Lansing: Thorp & Godfrey, 1888), 24.

¹⁵⁴ *Ibid.*

Although he is less than specific, the language McKee uses is noteworthy. He mentions the “Indians on the South side of the Lake.”¹⁵⁵ Geographically, the First Nation of Detroit, by whom the treaty was signed, had villages concentrated around the northwest end of lake Erie near Detroit – not the south. Furthermore, McKee used the term “Indian Country”.¹⁵⁶ Although the vast majority of the *pays d’en haut* was in fact still “Indian Country” at this time, in the sense that it was Aboriginal land and devoid of any official non-Aboriginal settler presence, use of this term by McKee, was most likely in reference to the region south of Lake Erie and not the areas in the vicinity of Detroit. In particular, McKee’s earlier and frequent references to “Indian Country” concerned his visits his home on the Maumee River. Combined, the terminology indicates that McKee tour went beyond the Detroit area and into “Indian Country” to speak with other members of the Confederacy.

This tour is particularly noteworthy because of McKee’s visit to an important political site in Great Lakes and the new seat of the council fire of the Confederacy. After the disaster of Fort Harmar, the Council fire of the Confederacy had been extinguished at Brownstown and moved South to the Maumee, and a location that was home to many First Nations of the Confederacy including the Shawnee, Lenape, Miamis, Mingo, Haudenosaunee, and Wyandot. In light of this, it seems that during his spring trip down to “Indian Country” to discuss the proposed surrender of land, he sat in consultation with these peoples of the Confederacy rather than the nations of Detroit alone. If that was indeed the case, McKee’s “Tour into the Indian Country” south of Lake Erie, would have served his interests, ensuring that Confederacy allies, who were necessary to the defence of the Province of Quebec, remained intact.

¹⁵⁵ Col. McKee to Sir John Johnson, 5 May 1790, in *Collections and Researches*. Vol. XII, 24.

¹⁵⁶ *Ibid.*

Alexander McKee

In many ways Alexander McKee was the ideal man to fill the post of Deputy Indian Agent. Born to a Shawnee mother, McKee was raised in the interior and educated in the ways of her people by her.¹⁵⁷ One of the most politically active and important people in the *pays d'en haut* and the Confederacy at this time, McKee held notable positions such as the keeper of the Belts of the Confederacy. This was complemented by the education that he received as a result of his Scots-Irish father, Thomas McKee. Records indicate that a tutor was retained to teach the young McKee in a number of subjects that would later allow him to operate in the highest circles of colonial society.¹⁵⁸ In addition, McKee had also been afforded a first class education in the arts of diplomacy. Working alongside his father at his trading post from a young age, McKee learned the ways of Aboriginal diplomacy from a well-loved expert in that art. Accounts suggest that Aboriginal peoples from a variety of nations made detours off the most direct routes to their destinations to visit the Thomas McKee's post. Indeed, there are a couple of instances of Aboriginal people having taken the elder McKee's name as a mark of respect. Throughout his adult life Alexander McKee spent his time living and working amongst the peoples of the Confederacy, making his home at "McKee's Town" in the heart of "the Indian country" rather than colonial Detroit.¹⁵⁹

As the agent at Detroit, McKee had also been the point person in dealing with the Confederacy throughout the post-revolution period. In the course of his duties it was his responsibility keep track of the regional political environment after the war. As a result, he was in attendance, or received reports from, all of the major councils held with, or between, the

¹⁵⁷ Frederick Wulff. *Alexander McKee The Great White Elk: British Indian Agent on the Colonial Frontier*. (Parker, CO: Outskirts Press, 2013), 6.

¹⁵⁸ *Ibid.*

¹⁵⁹ Nelson. *A Man of Distinction Among Them*. 24-25.

Aboriginal peoples of the *pays d'en haut*. Knowledge of the council proceedings was essential for his role of managing relations with the First Nations. Through this position and his intimate understanding of the councils, McKee would have been aware that theoretically any agreement reached with one or more members of the Confederacy had support from the rest of the Confederacy. This was the case, for instance, when McKee met with Brant and the chiefs of the Confederacy in December of 1786. At this meeting, the chiefs demanded that Britain clarify its position in relation of the Confederacy and its conflict with the United States. In addition, McKee was also involved in the negotiations with chiefs at Detroit that prevented the British from going to war with the United States. Finally, McKee witnessed similar circumstances in the disastrous fallout from the Treaty of Ft. Harmar where the Americans had attempted to dismiss the Confederacy as an entity a year before. Thus, knowing what he did, as the man whose responsibility it was to ensure that the same did not happen to the British as had to the Americans, the only reasonable step for McKee to take was to raise the issue of the treaty with the Confederacy as a whole.

The winter 1789-90 and the spring of 1790 were a particularly tense time in the *pays d'en haut*. Although it was highly unlikely that a land cession with the British would have the same disastrous consequences as the Treaty of Fort Harmar, the various factions within the Confederacy continued to worry the British. In the months preceding the treaty there were real concerns at Detroit about the alliance with Aboriginal peoples, and the safety of the post. Of particular concern in 1789/1790 was the intent of the Wyandot people of Detroit. Although the reports would later prove to be false, it was said that the Wyandot were planning to attack the post of Detroit. These concerns were given extra credence at the time by the prominence of the Wendat/Wyandot among those seeking to improve relations with the Americans through

negotiation and away from the close alliance with the British. These concerns were serious enough that they made their way by secret intelligence reports to the desk of the Governor General Lord Dorchester at Quebec. From there they were subsequently forwarded by Dorchester to Whitehall.¹⁶⁰ This threat meant that McKee, who forwarded word of the perceived threat to the British high command, could not afford the chance of antagonizing the Confederacy during the period of negotiations that preceded the treaty.

In spite of these threats, the chances that a land cession to the British could have produced results anywhere near as disastrous as the Americans achieved at Fort Harmar were slim. This cannot be ascribed to the extent of the area surrendered. Although it may not have been as sweeping a cession as the Treaty of Ft. Harmar, at 5,440 square kilometers the treaty still represented the cession of a significant amount of land.¹⁶¹ Furthermore, it was land which no other party had claimed, it was largely unsettled and was under Aboriginal control. As such, it was a significant land surrender that the Confederacy could not ignore. Rather, the success of the treaty stems from the markedly different relationship between the Confederacy and the British. The British and the peoples of the Confederacy, enjoyed fairly amiable relations during this period, unlike the frequently hostile nature of their relationship with the United States. Although there were periods of tension and uneasiness between individuals, British traders, and officers of the Indian Department continued to live among the peoples of the Confederacy. Furthermore, it is important to note that the Confederacy had only just begun an entirely new, and far more violent phase of their conflict with the United States for control of the *pays d'en haut*.

¹⁶⁰ Lord Dorchester to Grenville, Quebec, 8 March 1790, in *Collections and Researches of the made by the Pioneer and Historical Society of the State of Michigan*. Vol. 12. (Lansing: Thorp & Godfrey, 1888), 22.

¹⁶¹ Dean Jacobs. "Indian Land Surrenders," in *The Western District: Papers from the Western District Conference*. K.G. Pryke & L.L. Kulisek, eds. Occasional Papers, no.2. (Windsor: Essex County Historical Society; printed by Commercial Printing Co., 1983), 64.

The intensification of the conflict between the Confederacy and the United States was a marked departure from the political climate that had emerged in the wake of the American Revolution. It was during the Revolution, that Britain served as a key source of arms and ammunition for the Confederacy so that they could continue to fight. At times, they also provided other essential supplies including foodstuffs to enable the Confederacy to continue to fight on. In the event of circumstances where they found British supplies cut off, their only option would have been the Spanish on the Mississippi. Although this may have theoretically been possible, there were no established networks based around the Mississippi that would have allowed the Confederacy to obtain the stores they required while devoting themselves primarily to war rather than commerce. Although they were actively involved in trade with the British, the Confederacy also received significant amount of presents from the British for which they were not required to trade furs or other goods. There was no comparable gift network emanating from the Spanish Mississippi.¹⁵⁰ Thus, the British were an irreplaceable source of supply that the Confederacy needed to maintain in order to continue their struggle. Consequently, the Confederacy could not afford to make enemies of the British at this time, as doing so would leave them without access to arms and ammunition that they required to continue the fight for their lands.

The necessity of maintaining the relationship with the British was particularly acute in the spring of 1790. For months before the signing of the Treaty it was well known that the Americans were “raising a large body of troops, under color [sic] of completing their establishment on the eastern frontier.” The size of the force suggested that although it was raised under:

The pretense to the public is to repel the Indians... those, who know better, and see that an Indian war does not require so great a force, nor that very large proportion of Artillery, are given to understand, that part of the forces are to take possession of the frontier, as settled by treaty, to seize the posts and secure the fur trade.¹⁶²

The Americans were planning a full-scale invasion of the *pays d'en haut* and the Confederacy needed to be ready. Without the ability to rely on British supplies, the Confederacy would not be able to meet the Americans in the field and resist the invasion.

Although the Confederacy could not afford to damage its relationship with their main source of supply for war material in 1790, concluding a treaty without the consent of the remainder of the Confederacy would still have led to some degree of tension between the various First Nations within the Confederacy. Tellingly, there are no hints that any of the Aboriginal signatories were dissatisfied with the Treaty in the years immediately following it. There is notably no evidence of any complaints having been made to Alexander McKee, for instance. This is particularly significant, because if he had received complaints on the matter, they would almost certainly have been passed on in his official correspondence. In addition, McKee's defense against the complaints made by the civilian members of the Land Board regarding the inclusion of the two reserves that they considered unnecessary and contrary to British interests, could certainly have been strengthened by presenting evidence of Aboriginal dissatisfaction with the Treaty.

Opposition to the Treaty was also notably absent in August 1790. At that time Sir John Johnson, the Superintendent General of Indian Affairs was on the last leg of his tour of the interior posts, having just returned to Detroit from Michilimackinac before going to the St. Lawrence. As McKee's superior officer in the Indian Department, he was in charge of managing

¹⁶² Dorchester to Grenville, 8 March 1790, in *Collections and Researches*, vol.XII. 22.

Britain's relationships with Aboriginal peoples in the northern half of North America. In response to the ongoing dispute over the inclusion of the reserves in the McKee Treaty, a council was held at Brownstown with a number of Aboriginal peoples specifically to discuss the Treaty. Although they discussed the extent of the reserves and their utility to the Aboriginal peoples concerned, there is a clear lack of any protest over the nature of the Treaty that was negotiated, or the way in which the negotiations were conducted.¹⁶³ The lack of any protest about the Treaty demonstrates the agreeable nature of relations between the Confederacy and the Crown, in spite of the surrender of a vast area. This lack of complaint signifies that the peoples of the Confederacy as a whole, and not just the four First Nations of Detroit, acquiesced to it.

The Lakes Confederacy

The transcript of the public treaty council held on the 19 May 1790 provides tantalizing hints about this, but is frustratingly cryptic. What is clear is that the Treaty was concluded with the assent and agreement of more than simply the four First Nations of Detroit.

At the public treaty council the main speaker was the Odawa chief Egushwa. A well respected leader amongst all of the peoples of the western lakes and the Maumee River, he frequently spoke with authority on behalf of his own Odawa people, as well as Ojibwa, and Pottawatomi, and occasionally the Wyandot.¹⁶⁴ The McKee Treaty council was no exception, and on this occasion he was the main Aboriginal speaker at the public treaty council. On this occasion he spoke on behalf of numerous peoples, but it is unclear how many. The transcript of the public treaty council notes that "E.gouch.e.ouai. Chief of the Ottawas in the name of the Lake

¹⁶³ Proceedings of a Council Held at Buffaloe Creek between the Five Nations and the War Chiefs of the Cherokee and Shawanese Indians 7th September 1789, *Frontier Wars Fonds*, Vol. 23, Lyman Draper Manuscript Collection, Wisconsin Historical Society.

¹⁶⁴ Reginald Horsman. "Egushwa (Agashawa, Augooshaway, Negushwa)". In *Dictionary of Canadian Biography*, vol. 4. University of Toronto/Université Laval, 2003. http://www.biographi.ca/en/bio/egushwa_4E.html.

Confederacy arose and Spoke” to those assembled.¹⁶⁵ Yet, the term “Lake Confederacy” is not clear and could refer to two separate bodies. The smaller of the two, on whose behalf he was certainly qualified to speak for was the people commonly referred to as the “Lake Indians.” The so-called “Lake Indians” included the Aboriginal peoples of Detroit with the notable exception of the Wyandot, the Potawatomi further to the west at Saint Joseph, as well as the Aboriginal peoples at Saginaw, in the villages from Arbre Croche to Michilimackinac.¹⁶⁶ Yet despite this, other contemporary British and American documents refer to them as the “Lake Indians,” and not the “Lake Confederacy.” This is an interesting, but inconclusive, distinction because the term “confederacy” seems to imply a greater degree of official unity as oppose to “Indians.”

Yet, we do know that the “Lake Indians” represented one of the key constituents of the larger Confederacy in the years after the American Revolution. It possible, then that Egushwa was speaking on behalf of the Confederacy more broadly. Although often referred to in correspondence as the “Western Indians” by McKee, another Indian Department officer, Isadore Chene, was designated to translate at the council, and signed each page of the transcript of the public treaty council, on which he translated Egushwa’s speech. The term “Lake Confederacy” in this instance may have been intended to refer instead to an older name used for the alliance between the peoples of the *pays d’en haut*, and the Western Lakes Confederacy. This was the name by which the Western peoples were referred in 1764 during the Treaty of Niagara.¹⁶⁷ This may, therefore, have plausibly been used to refer to the wider Confederacy in 1790.

It is therefore unclear the full extent of the nations on whose behalf Egushwa was speaking when he rose on 19 May 1790 in the name of the “Lake Confederacy.” Although it can

¹⁶⁵ “Council Held at Detroit the 19th Day of May 1790. with the following Nations of Indians “, Superintendent of Indian Affairs in the Northern District of North America fonds, MG 19, F 35- Superintendent of Indian Affairs Series 2 – lot 682.

¹⁶⁶ White. *The Middle Ground*. 463.

¹⁶⁷ McNab, *No Place for Fairness.*, 17.

be asserted that at the very least he was speaking on behalf of all of the nations of Detroit, with the exception of the Wyandot. The Detroit Odawa, Ojibwa, and Pottawatomi all formed part of the “Lake Indians” at this time. In turn, the constituent peoples of the “Lake Indians,” effectively represented most of the members of the Confederacy north of the Maumee River. Although the Wyandot were an important people within the Confederacy, the fact that Egushwa was not speaking on their behalf in this instance is evident from the third part of his address, which is directed to the Wyandot, rather than to the British officials.¹⁶⁸

This would not pose a problem for McKee and his quest to conclude the Treaty. Col. McKee was able to negotiate the Treaty as he saw fit because of his role as the Indian Agent at Detroit. Although he also held military rank, a captaincy in the Detroit Militia, his service as a colonel the Indian Department placed him outside of the military and civilian chain of command at Detroit. Orders issued to the Indian Department’s officers in 1787 stipulated that “When public conferences are held at any of the Posts between the Agents residing there and the Indians. the Commanding Officer shall preside, attended by all the Officers of the Garrison.”¹⁶⁹ Notably, this order only included the public councils, and not those held in private. It goes on to state that even then, “[the Commanding Officer] is not under pretence of this regulation to interfere with the Agent on the management of the Indian Department.”¹⁷⁰ Thus, the Indian Agent was granted sole authority for negotiating with Aboriginal peoples. Indeed, the exclusion of the post commander Major Patrick Murray from the private treaty councils held on the 18th and 19th of May, and those consultations held earlier to the south of the Lake meant that McKee

¹⁶⁸ Extract from the Journal of Indian transactions at Detroit Kept by Alexr. M^c.kee Esq. Deputy Agent from the 18th to the 22nd of May 1790, 16 November 1829, Office of the Deputy Superintendent General of Indian Affairs: Correspondence, 1789-1830, Library and Archives Canada. Microfilm Reel C-11014,.

¹⁶⁹ “Remarks on the Instructions and Orders for the Government of the Indian Department”, Office of the Deputy Superintendent General of Indian Affairs : correspondence, 1789-1830, Reel C-11007, Library and Archives Canada.

¹⁷⁰ *Ibid.*

was the only British representative who was consistently present during the negotiations, which Major Murray freely admitted.¹⁷¹ Even if he had not been, the standing orders issued to the military and the Indian Department's officers prohibiting regular army officers from interfering in councils meant that he had complete control over the negotiations. McKee did fall into the chain of command within the Indian Department, although as he was the most senior Indian Department officer present in the *pays d'en haut* at the time of the Treaty. His superior officer, Sir John Johnson, spent the majority of his time in the east, leaving McKee almost entirely unsupervised. In essence, this gave McKee and other officers of the Indian Department the power to shape British policy towards the Confederacy in the *pays d'en haut*.¹⁷²

More challenging is the fact that all the representatives of the Confederacy did not attend the final treaty council, and subsequently sign the treaty. Yet, it is clearly indicative of the profound changes that the Confederacy was undergoing in the wake of the Treaty of Fort Harmar. It is a manifestation of the failure of Joseph Brant's vision of the Confederacy's relationship with the British. On the basis of the idea, first asserted in 1786, that "when Any thing of importance requires our exertions that they may be general and united [sic]", the Confederacy as a whole should have engaged in discussions regarding the Treaty.¹⁷³ In light of the subsequent demand made to McKee in December, 1786 that Britain treat with them as a unified Confederacy rather than as independent nations, this should have led to representatives of

¹⁷¹ "Land Board, 28 May, 1790." In *Third Report of the Bureau of Archives*. 11-12

¹⁷² Calloway states that "The Indian agent or officer in the Indian country did, however, possess a poer to influence policy far out of proportion to his official position." Colin Calloway. *Crown and Calumet: British-Indian Relations, 1783-1815*. (Norman, OK: University of Oklahoma Press, 1987), 70. Also, Timothy Willig, "Restoring the Thin Red Line: British Policy and the Indians of the Great Lakes, 1783-1812," (PhD. Diss., University of Massachusetts Amherst, 2003).

¹⁷³ "Copy of the Transactions between the Five Nations & the Western Indians, at there late meeting in the Indian Country" LAC Reel C-1224, 170.

the Confederacy being present at Detroit for the conclusion of the Treaty.¹⁷⁴ Instead, however, only the four nations of Detroit signed the Treaty on the 19th of May.

The treaties concluded by the Americans, including those at Fort Harmar, similarly did not bare the signatures of representatives of *all* the Confederacy. In looking at these agreements with the United States, and their failure, it is important to note that Aboriginal signatories did not protest the validity of the treaties because of a failure of all the nations to be represented, but rather, because the individuals in attendance did not possess the authority to agree to the final terms that they did. As previously discussed, almost all of the chiefs who signed the Treaty of Fort Harmar were making their first appearance at a treaty council. Those present at the conclusion of the McKee Treaty, however, included many of the most important and experienced chiefs at Detroit. Egushwa, for instance, was one of the most influential chiefs at Detroit and played a prominent role during the negotiations and was a signatory. As did Sastaritsie, who “could be called the Grand Chief of the Wyandot.”¹⁷⁵ Among the Ojibwa, Wasson was also a signatory of the Treaty, and featured prominently in regional affairs since Pontiac’s War. Many of the other chiefs who signed the Treaty had previously signed treaties with the British Crown or the Americans, or had signed deeds to land in the Detroit region.¹⁷⁶ The local importance of these individuals suggests that the signatories of the McKee Treaty had the authority to negotiate on behalf of their people.

Provided the people on the Maumee agreed to the cession, the local First Nations could have proceeded to cede it without the rest of the Confederacy in attendance at the council. The

¹⁷⁴ Indian Council, 24 December 1786, in *Collections and Researches made by the Pioneer and Historical Society of the State of Michigan*, Vol. XI, 470-471.

¹⁷⁵ Steckley. *The Eighteenth-Century Wyandot*. 52

¹⁷⁶ Although the majority of these deeds were given to non-Aboriginal settlers, first French and then later British arrivals at Detroit, including a significant number of loyalists, there were some Aboriginal peoples who acquired land in this way. The most notable example in the District of Hesse being Sally Ainse.

Confederacy never asserted that all First Nations enjoyed equal rights to all lands held by the First Nations of the Confederacy. Their common interests in the lands of the Confederacy only recognized the necessity of the Confederacy as a whole agreeing to a cession of land. They did not gain other rights of usage, or interest in the value of it should it be sold. This might explain why it was only the people of Detroit who were to share in the 1200 pounds Quebec currency worth of goods that were presented in exchange for the cession.

The Confederacy's concept of universal ownership was complex and a relatively new idea. In general the British considered Aboriginal ownership to be related to occupation or use of lands in question. Thus, this also explains why the British would not have required all the First Nations of the Confederacy to be among the signatories. To the British, ownership was determined by the possession of various rights to the land, and it was only the Nations of Detroit, and not the peoples of the Confederacy more generally who had use of the land in question. Only the Indian Department's Officers and traders in the *pays d'en haut* would have fully understood the Confederacy's conception of collective ownership that did not directly equate to a concept of ownership within British common law. Therefore, it would not be necessary to alienate rights from these people when transferring the land to the Crown.

The success of the McKee Treaty stemmed from the willingness of Alexander McKee, and by extension the British, to meet the needs of the Confederacy, and negotiate effectively with the peoples of the Confederacy. Ultimately, the Confederacy as a whole and not just the Nations of Detroit were a party to the Treaty. Given the assertion of collective ownership made by the Confederacy, and their actions taken to dismiss treaties made without the unanimous consent of the peoples of the Confederacy, they must have agreed to the peaceful, and unchallenged McKee Treaty. The absence of several members of the Confederacy in the treaty

document, do not dismiss the possibility that they had already accepted the treaty agreement before the signing. Indeed, the idea that the Confederacy at large was not consulted before the treaty was concluded is almost unthinkable. From the end of the American Revolution until after the War of 1812, the British relied on Aboriginal allies to defend British North America. No one was more keenly aware of this Alexander McKee. As the Deputy Indian Agent at Detroit, his primary occupation was monitoring and managing the Crown's relationship with the Aboriginal peoples of the *pays d'en haut*.

Spirit and Intent

Father. You have told us that you have received Letters from our Father the General, and our Father Sir John Johnson acquainting you that our Father the Great King had written to them, to know if We would cede him a Piece of Land extending from the from the other side of the River to the line of that ceded by the Messesagez.

Father, Is there a man amongst us who will refuse this request? What man can refuse what is asked by a Father so good and so generous, that he has never yet refused us any thing? What Nation? None Father!¹⁷⁷

With these words, the Odawa chief Egushwa publically announced that the People of Detroit granted all unceded Aboriginal lands between the Thames River and Lake Erie to the British. As he did this, Egushwa placed great emphasis on the established relationship between the Aboriginal people in attendance on whose behalf he spoke and the British Crown. This relationship was of great importance in the wake of the events at Fort Harmar in 1789. The

¹⁷⁷ "Council Held at Detroit the 19th Day of May 1790. with the following Nations of Indians, Superintendent of Indian Affairs in the Northern District of North America fonds, reel H-2944, Library and Archives Canada.

McKee Treaty of 1790 was born of, and is inextricable from, the greater realities of the time and place it was crafted. The Treaty functioned as an integral part of this world, and the ongoing and developing relationship between the British and the peoples of the *pays d'en haut*. In addition to serving as a land cession to fulfill the needs of the Land Board for the District of Hesse, the evidence of this thesis proves that it also functioned as a treaty of alliance between the Confederacy and the Crown.

The final document signed at Detroit on 19 May deals only with the issue of land. The People of Detroit also understood that this was a land cession. This is evident in Egushwa's words as stated previously. He clearly indicates the Aboriginal people's response to the request for a cession of land from the Crown. This understanding is also evidenced in the proceedings of a Council held at the "Huron Village" in the vicinity of Detroit three months later, where the First Nations in attendance affirmed the boundaries of the lands that had been reserved for the Wyandot and excluded from the cession.¹⁷⁸ Thus, the matter of land was clearly acknowledged by both the British and the Aboriginal peoples of the *pays d'en haut* as a central element of the agreement.

Yet Aboriginal treaty-making in the *pays d'en haut* at the end of the eighteenth century differed substantially from contemporary European treaty-making. Because the Aboriginal people maintained such considerable power in the region at this time, treaties that were concluded with them had to be undertaken on their terms. This much had been clearly illustrated the previous year at Fort Harmar. Even with the American failure to consider Aboriginal demands in any meaningful way, and their failure to successfully employ wampum diplomacy, the negotiations between the Americans and the Confederacy were conducted in the context of the middle

¹⁷⁸ Council at the Huron Village 16 August, 1790. Frontier Wars Fonds, Vol.23, Lyman Draper Manuscript Collection, Wisconsin Historical Society.

ground. In effect, the attempt to conclude a treaty at Fort Harmar had shown that the middle ground was still very much alive, and that attempts to dispense with it could be disastrous.

As the peoples of the Confederacy continued to hold the position of power in the *pays d'en haut* and shape the nature of diplomatic interactions in 1790, it is essential that Aboriginal understandings of treaties be recognized. An examination of the language employed by all parties provides some insight in this matter. The goods given to the Aboriginal people in attendance was referred to as “presents” in the text of the written treaty.¹⁷⁹ It is possible that the land ceded to the British was suppose to be a “present.” Although Egushawa does not specifically state this, his invocation of the established relationship between the Crown and Aboriginal peoples frames it as a token in recognition of an ongoing relationship. Thus, it is plausible that both the British and Aboriginal participants saw the exchange as a gifting of land. This is significant because it framed the Treaty in the context of understandings of the middle ground.

As discussed in the second chapter of this thesis, gifts were an essential part of interactions in the *pays d'en haut*. Gifts that were given in the middle ground effectively symbolized the agreement, and emphasised that the giver was sincere in their words. Because they symbolized the agreement on the occasion of which they were given, their treatment of gifts mirrored the status of the treaty.¹⁸⁰

Most importantly, gifts also established obligation between the giver and the receiver.¹⁸¹ Therefore, when gifts were given to mark an agreement, they did not mark a one-time event, but one element of an ongoing, living relationship between the parties. The description of the goods given to the Peoples of Detroit in exchange for the land was similar with the other “Early Upper

¹⁷⁹ “No.2” in *Indian Treaties and Land Surrenders*, Vol. 1. 1

¹⁸⁰ Cary Miller. “Gifts as Treaties”,

¹⁸¹ *Ibid*, 225.

Canadian Treaties” (which are commonly described as those land cession treaties covering parts of what would become Upper Canada in 1791 that were signed roughly between 1783 and 1815). They were seen as presents, and were a legacy from the earlier “Peace and Friendship” treaties that had been signed before the Royal Proclamation of 1763.¹⁸² The primary purpose of those treaties had been establishing and maintaining peaceful relations in the *pays d’en haut*.¹⁸³ The elements of this earlier system focused heavily on diplomatic relations between the parties and it is likely that these practices did not stop in 1763. In her article focused on the Anishinabeg peoples specifically, Cary Miller argues that the importance of gift giving continued into the 1820s and 1830s.¹⁸⁴ Thus, when examining the practices of the Peoples of Detroit in 1790, including three Anishnabeg peoples (the Odawa, Ojibwa, and Potawatomi), it is likely that they too understood the gifts as a means to solidify diplomatic relations. Certainly, Egushwa, one of the most influential chiefs in attendance, would have been familiar with this custom.

Alexander McKee was also well aware of the legacy of diplomatic elements of treaty-making. With no records detailing the nature of the negotiations, it is impossible to know what specifically McKee may or may not have promised the Confederacy.¹⁸⁵ It is impossible to know whether he made any promises that guaranteed continued British support to them, including the supply of arms and ammunition and other supplies that they might need, over American protests. Although McKee was loyal to the Crown and worked for decades to secure its interests, he never abandoned his mother’s people and their interests. At this time he worked to ensure that their desires were met. In the end he continued to supply the Shawnee and other peoples of the

¹⁸² J.R. Miller. *Compact, Contract, Covenant*. 81-2

¹⁸³ *Ibid.* 287-289.

¹⁸⁴ Cary Miller. “Gifts as Treaties”, 225

¹⁸⁵ It is possible that McKee’s Post Journal for 1790 contains more information about the negotiations that took place to the south of the lakes. This journal is not present in the records for the Western Posts which are found on Library and Archives Canada Microfilm reel C-1224. It is probable however that these records survive somewhere in the records relating to the Indian Department as the journal was in the possession of the Office of the Superintendent of Indian Affairs in 1829. The journal has not however been located by the author at this time.

Confederacy with arms and other supplies.¹⁸⁶ However, using his initiative, it is highly probable that McKee discussed the land surrender in terms that placed it within the context of the ongoing relationship between the Crown and the Confederacy.

¹⁸⁶ Nelson. *A Man of Distinction among Them*.

Conclusion

The McKee Treaty of 1790 continued to feature as an issue in the ongoing Aboriginal-Newcomer relationship in the Southeastern corner of what would be sequentially the Province of Quebec, the Province of Upper Canada, the Province of Canada, and the Province of Ontario for decades. At later treaties concluded with peoples in the region into the first quarter of the nineteenth century, the provisions of the McKee Treaty would provide a base on which Aboriginal peoples would root their positions, and the terms that they sought.

In 1829, some of the American descendants of the signatory nations petitioned for a share of the remaining Huron Reserve, on the basis that it had been given to the “Ottawa, Chippewa, Pottowatomy and Huron Indian Nations of Detroit” and not just to the Wyandot/Huron. This time however, the claim was rebuffed by Sir John Colborne on the basis that the First Nations themselves had decided to limit the rights of the Huron Reserve to the Wyandot following the signing of the original treaty in 1790.¹⁸⁷ This marked a fundamental change from previous treaties, that had recognized all of the Aboriginal peoples signatories as owners whether they dwelt on the land or not. From this point on however, the British considered tenancy on the reserve to be all important. Interestingly this change in policy occurred at a point when the First Nations were no longer an important force required by the British for the defence of Upper Canada. Now that the Province was secure, other considerations would increase in importance. This decision was probably at least in part motivated by a desire to reduce the strength of the Aboriginal ties to the reserve, that the Government would soon attempt to purchase.¹⁸⁸ By

¹⁸⁷ Alan Douglas. *Uppermost Canada: The Western District and the Detroit Frontier, 1800-1850*. (Detroit: Wayne State University Press, 2001), 127.

¹⁸⁸ *Ibid*, 126. The settler population of the region had been pushing the Government to purchase the reserve for years, and this would finally happen. One of their arguments for why it should be purchased focused on the fact that only 90 Huron lived on the Reserve, and thus much of it was simply wasted. By preventing any more First Nations from moving on to the reserve or recognizing outsiders rights rights to part of it, the government could minimize the minimize their outlay for the purchase of the reserve.

keeping the numbers of those involved as low as possible the British were also minimizing the potential outlay they would have to make to buy the reserve. This was reflected in the purchase of most of what remained of the reserve in the 1836, which dealt only with the resident “Wyandot Tribe.”¹⁸⁹

The changes that have occurred since the original treaty was signed have effectively created the situation originally sought by the Land Board. The entire region covered by the Treaty passed into crown ownership and then to private individuals (some Aboriginal, some not). On November 1873 the remaining Aboriginal peoples living on what was left of the Huron Reserve petitioned for enfranchisement under the Indian Act.¹⁹⁰ With their successful enfranchisement, the last vestige of the reserves created by the McKee Treaty were dissolved and severed into individual privately owned plots in Anderdon Township, for the decedents of the signatories that were no longer “Indians” in the eyes of the law. Today very few that live in the region covered by the treaty are aware of it or its significance. Among the few that are still aware of the Treaty are the Wyandot Nation of Anderdon, the descendants of the Wyandot at Detroit who signed the treaty in 1790.

The Treaty has continued to be a source of litigation in the modern era. Walpole Island First Nation has submitted a claim, and after an initial rejection by the Government, an Inquiry held in 2000 recommended that they resubmit their claim under comprehensive claims policy, finding that any Aboriginal rights that existed in 1786 have not been subsequently extinguished.¹⁹¹ Caldwell First Nation, who resided at Point Peelee at the time of the signing of the Treaty, have also been able to settle a Land Claim with the Government of Canada in

¹⁸⁹ This treaty was Aboriginal affairs consecutive number 46. “No. 46,” in *Indian Treaties and Land Surrenders: from 1680 to 1890 in Two Volumes*. Vol. 1. (Ottawa: Brown Chamberlin. 1891), 113-115.

¹⁹⁰ “Anderdon Reserve: Wyandots petition that their land may be surrendered and sold.” Red Series, R216-244-6-E, Library and Archives Canada, Ottawa.

¹⁹¹ Walpole Island First Nation Inquiry Boblo Island Claim. 87.

2012.¹⁹² Thus, our interpretation and understanding of this treaty continues to hold relevance in the nature of the relationships between the parties to the Treaty 226 years after it was signed.

Because of these subsequent events and the struggles of Aboriginal people in both Canada and the United States, it is all too easy to forget that First Nations remained a significant force in the *pays d'en haut* until the defeat of the Confederacy at the Battle of Fallen Timbers in 1794, and the pullout by the British following signing of the Jay Treaty later that year. This research demonstrates that the history of treaty-making in Canada cannot stand in isolation as it does now, even after the American Revolution. To date, treaty history in what is now Ontario have focused exclusively on events on the Canadian side of the border. Similarly, the events occurring in what would only later become part of the United States cannot be understood in isolation from happenings in British North America. These national history paradigms must give way and instead adopt a regional approach to the topic.

The signed treaty document that emerged from the council at Detroit on May 19th, 1790 was an instrument of law meant to fulfill the needs of the Land Board for the District of Hesse—the body that was ultimately responsible for the creation of a treaty with the people of Detroit in the spring of 1790. Their needs exerted great influence over the form of the written treaty record, which today survives in the collection of Library and Archives Canada as originals and contemporary official duplicates. As a legal instrument in the British Common Law tradition, it served its purpose as an official record of an exchange of land. Still, while it was the Land Board that was responsible for the pursuit of a treaty in the spring of 1790, they had little influence on its negotiation, and the product that emerged was far more complex than a simple land cession.

¹⁹² “Fact Sheet: Caldwell First Nation specific claim.” Aboriginal Affairs and Northern Development Canada. Last modified 24 February, 2012. <http://www.aadnc-aandc.gc.ca/aiarch/mr/nr/s-d2006/02788bk-eng.asp>

The McKee treaty was the product of months of negotiations that had taken place in the cultural and diplomatic middle ground of the *pays d'en haut* over the winter of 1789-90. Afforded a great deal of latitude by the lack of supervision at Detroit where he was the senior Indian Department officer, Alexander McKee crafted a treaty that met the disparate needs of all of the parties. Although his orders specified only that he should conduct a land purchase covering the unceded lands south of the River Thames, between the Detroit River and Long Point, McKee used his initiative and knowledge of the complexities of Aboriginal diplomacy to strengthen the bonds between the Aboriginal peoples of the Confederacy and the Crown at this crucial time, while obtaining the lands that were sought by the Land Board to facilitate the settlement of the area by non-Aboriginal peoples.

The failure of the Treaty of Fort Harmar to end the conflict between the Aboriginal peoples of the Confederacy and the fledgling United States was a turning point in the struggle for the *pays d'en haut*, and marked the beginning of significant changes in the relationship between Aboriginal peoples and the Crown. The increased intensity of hostilities forced the peoples of the Confederacy to rely more heavily on Britain while simultaneously demonstrating their dedication to the concept of universal ownership of land within the Confederacy. This placed them in a challenging position in 1790. The peoples of the Confederacy willingly acquiesced to the cession to strengthen their alliance with the British in the face of conflict with the United States.

At the more local level, the Indigenous people of Detroit were also willing to work with the British to strengthen their relationship with the British at this time. The Treaties of Fort Harmar had proven detrimental to them. Prior to the signing of that treaty in 1789, many of these people had formed part of the neutral faction within the Confederacy that favoured negotiating with the Americans, and that had pushed for the treaty. This in turn saw them widely discredited

within the Confederacy, and in desperate need to improve their position, they also found themselves, and the Confederacy as a whole at war the Americans. For those among the peoples at Detroit who had favoured a neutral stance, concluding the treaty afforded them to improve their standing. Simultaneously, the treaty offered all peoples of Detroit the opportunity to enhance their relationship with the British.

Thus, the McKee Treaty offered both Aboriginal peoples and the British the opportunity to strengthen their relationships with each other, at a time when they were heavily dependent upon one another. Extending far beyond a land sale agreement, the McKee Treaty of 1790 functioned as a treaty of alliance that brought Aboriginal peoples and the British closer together. The extent of this reached far beyond the borders of what was legally recognized as the British Province of Quebec, and into the region south of the Lakes that is today the American Midwest. The treaty features as an important part of not only Canadian history, and the history of settlement, but also American history, and the shared history of the Great Lakes Region. More than that, this treaty signifies the complicated nature of Crown relations with the Indigenous people in the vicinity of Detroit at the end of the nineteenth century.

Appendix A: The McKee Treaty of 1790

Source:

Indian Treaties and Land Surrenders: from 1680 to 1890 in Two Volumes. Vol. 1. (Ottawa: Brown Chamberlin. 1891), 1-5.

KNOW ALL MEN BY THESE PRESENTS, that we the principal -Village and War Chiefs of the Ottawa, Chippawa, Pottowatomy and Huron Indians Nations of Detroit for and in consideration of the Sum of Twelve hundred Pounds Currency of the Province of Quebec at Five Shillings per Spanish Dollar for valuable Wares and Merchandise to us delivered by the bands of Alexander McKee, Esquire, Deputy Agent of Indian Affairs, the receipt whereof we do hereby acknowledge, have by and with the consent of the whole of our said Nations, given, granted, enfeoffed, alienated, and confirmed, and by these presents do give, grant, enfeoff, alien and confirm unto His Majesty George the Third, King of Great Britain, France and Ireland, Defender of the Faith, &c., &c., &c., a certain Tract of land beginning at the mouth of Catfish Creek, commonly called Rivière au Chaudière on the North Side of Lake Erie being the Western extremity of a Tract purchased by His said Majesty from the Messesagey Indians in the year One Thousand Seven Hundred and Eighty four and from thence running Westward along the border of Lake Erie and up the Straight to the mouth of a river known by the name of Channail Ecarté and up the main branch of the said Channail Ecarté to the first fork on the south side, then a due east line until it intersects the Rivière à la Tranche, and up the said Rivière à la Tranche to the North West corner of the said cession granted to His Majesty in the year One Thousand Seven Hundred and Eighty Four, then following the Western boundary of said tract being a due South, direction until it strikes the mouth of said Catfish Creek or otherwise Rivière au Chaudière being the first offset;

Reserving a Tract beginning at the Indian Officers Land at a small run near the head of the Island of Bois Blanc and running upwards along the border of the Streight to the beginning of the French Settlement above the head of the Petite Isle au D'Inde; then a due East line seven miles and then South so many miles as will intersect another East line run from the mouth of said Run or Gully near the head of said Island of Bois Blanc:

And another Tract beginning at the mouth of Rivière au Jarvais commonly called Knagg's Creek, running up along the border of the Streight to the Huron Church and one hundred and twenty arpents¹⁹³ in depth with all and singular the appurtenances unto the said Tract of Land belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents and services of the said premises and all the estate, right, title, interest, property, claim or demand whatsoever of us the said Chiefs or any other person or persons whatever of our said Nations of, in, and to the said Tract of Land, or, of, in, and to every part and parcel thereof excepting the Reserve aforesaid.

To have and to hold the said Lands and Premises hereby given and granted, mentioned or intended to be given and granted unto His said Majesty George the Third, His Heirs and Successors for the only proper use and behoof of His said Majesty George the Third, His Heirs and Successors for Ever.

And we the said Chiefs for ourselves and the whole of our said Nations our and their Heirs, Executors and administrators do covenant, promise and grant to and with His said Majesty

¹⁹³ The arpent used in North America was equal to 180 French feet, or roughly 58.5 metres.

George the Third, His Heirs and Successors by these presents that His said Majesty His Heirs and Successors shall and lawfully may from henceforth and for ever after Peaceably and quietly have, hold, occupy, possess and enjoy the said tract of land hereby given and granted, mentioned or intended to be given and granted with all and every of the appurtenances free, clear, and discharged or well and sufficiently saved, kept harmless and indemnified of, from and against all former and other gifts, grants, bargains and sales and of, from and against all former and other Titles, troubles, charges or incumbrances whatever, had, done or suffered, or to be had, done or suffered by any of us the said Chiefs, or by anyone whatever of the said Nations our and their Heirs, Executors or administrators ; And by these presents do make this our act and Deed irrevocable under any pretence whatever, and have put His said Majesty in full possession and seizin by allowing houses to be built upon the Premises.

IN WITNESS WHEREOF, we the said Chiefs for ourselves and the said Nations have unto these Presents made the marks of our different Tribes, and affixed our Seals at Detroit, District of Hesse, in the Province of Quebec, this Nineteenth day of May, in the Thirtieth year of the Reign of Our Sovereign Lord George the Third, King Of Great Britain, France and Ireland, Defender of the Faith, &C., and in the year of Our Lord one thousand seven hundred and ninety (1790).

Signed, sealed and delivered in the presence of us in full Council:

Pat. Murray, *Major Commanding at Detroit*,
 Richard Porter, *Capt. 60th Regt.*,
 John J. Buller, *Capt. 60th Regt.*,
 Charles Ingram, *Capt. 60th Regt.*,
 I. Hesselberg, *Lieut. 60th Regt.*,
 John Robertson, *Lieut. R. R. Artillery*
 E. Cartwright, *Lieut. 60th Regt.*,
 Jb. Jordan, *Lieut. 60th Regt.*,
 Saml. Gibbs, *Ens. 60th Regt.*,
 G. Westphal, *Adj. 60th Regt.*,
 Jas. Henderson, *Surgeon.*,
 A. Grant
 Alex Harrow, *Lt. Commg. Nl. Dept.*,
 P. Fricchette, *Ptre Miss.*,
 Adhemar St. Martin,
 Gregor McGregor, *Major of Detroit Militia*,
 John Martin, *Ens. Militia*
 Frans. Baby, *Ens. Militia*
 William Robertson,
 T. Smith, *Lieut. Militia*,
 Thomas Reynolds, *Asst. Comss. And*
 Storekeeper,
 Henry Hay, *Ensigen*,
 Wm. Harffy.

Pottowatomies.

Sko-neque
 E-sha-ha
 Met-te-go-chin
 Pe-nash
 Shè-bense
 Key-way-te-nan

Hurons.

Sas-ta-rit-sie
 Ta-hou-ne-ha-wie-tie
 Ska-hou-mat
 Mon-do-ao
 Te-ha-tow-rence
 Son-din-ou
 Dow-yen-tet
 Ted-y-a-ta
 Tren-you-maing
 She-hou-wa-te-mon
 Meng-da-hai
 Tsough-ka-rats-y-wa
 Rou-nia-hy-ra

Chippawas.

Was-son
 Ti-e-cami-go-se
 Essebance
 Ouit-a-nis-sa

Nan-gie¹⁹⁴
 Cha-bou-quai
 Wa-ban-di-gais
 Mesh-qui-ga-boui

Ottawas.

Egouch-e-ouay
 Wa-wish-kuy
 Ni-a-ne-go
 Ki-wich-e-ouan
 At-ta-wa-kie
 O-na-gan
 En-dah-in
 Maug-gic-a-way

Recorded by me this 22nd day of June, 1790, at L'Assomption, in the District of Hesse.
 Register N. B, pages 374, 375, 376, 377.

T. SMITH, C. C. P.,
 D. H.

We do hereby certify that the following goods were delivered in our presence to the several Nations; Subscribers to the within Deed agreeable to the consideration therein mentioned (viz.):

	£	s.	d.
36 pairs 3 pt. blankets, at 12s.....	21	12	0
155 do 2½ do 10s. 6d.....	81	7	6
244 do 1½ do 5s. 9d.....	70	3	0
250 do 1 do 5s. 9d.....	59	7	6
155 do 2 do 7s.....	54	5	0
35 pieces of Strouds, at 67s.....	117	5	0
5 do black cloth, 100 yards, 3s. 9d.....	18	15	0
12 yards of Moltons, 40s.....	24	0	0
140 yards of scarlet cloth, 8s.....	56	0	0
12 pieces cadies, 420 yards, 2s. 6d.....	52	10	0
26 do Embolton linen, 96 yards, 15s 0½d.....	62	2	7
20 do linen, 500 yards, 16s.....	33	6	8
5 do callicoe, 40s.....	10	0	0
50 gross gartering, 12s.....	30	0	0
8 pieces of ribbon, 10s. 6d.....	4	4	0
40 lbs. thread, 3s.....	6	0	0
100 lbs. vermillion, 4s.....	20	0	0
1 dozen black silk handkerchiefs.....	1	10	0
	<hr/>	<hr/>	<hr/>
	722	8	3

¹⁹⁴ Note, Nangie is missing from transcripts of the treaty that have been published. This error stems from T. Smith's copy of the treaty made on the 22nd of June, 1790 from which the transcripts were made which failed to include Nangie name.

	£	s.	d.
20 dozen plain hats at 15s.....	15	0	0
40 nests of tin kettles, 21s.....	42	0	0
10 gross knives, 30s.....	15	0	0
60 guns, 20s. 6d.....	61	10	0
20 rifles, 50s.....	50	0	0
400 lbs. powder, 74s.....	14	16	0
1,600 lbs. ball and shot, 21s.....	16	16	0
2,000 flints, 10s.....	1	0	0
30 dozen looking glasses, 3s.....	4	10	0
50 plyers, 2s.....	5	0	0
10 pair callimaneon, 21s.....	10	10	0
4 nests trunks, 42s.....	8	8	0
12 dozen scissors, 2s. 9d.....	1	13	0
12 dozen penknives, 3s.....	1	16	0
1,000 fish hooks.....	1	2	6
12 dozen ivory combs, 4s. 6d.....	2	14	4
12 dozen horn combs, 2s.....	1	4	0
600 lbs. brass kettles, 15s.....	37	10	0
	290	9	0
2 gross fire steels, at 4s.....	0	8	0
10 do pipes, 1s 3d.....	0	12	6
	1	0	6
	722	8	3
	290	9	0
Sterling.....	1,013	17	9
Equal to Halifax currency.....	1,126	11	4
39 gallons of rum, at 3s. 9d.....	7	6	3
A bullock.....	13	0	0
400 lbs. tobacco, at 1s. 3d.....	25	0	0
24 laced hats, at 20s.....	24	0	0
11 gross pipes, at 1s. 6d.....		16	6
2 ¼ gross cuttcaw knives.....	3	5	11
Halifax currency or the currency of the Province of Quebec.....	£1,200	0	0

Pat. Murray, *Major Commanding.*
 Richd. Porter, *Capt. 2nd Batt. 60th Regt.*
 Charles Ingram, *Capt. 60th Regt.*
 John I. Buller, *Capt. 60th Regt.*
 T. Hesselberg, *Lt. 60th Regt.*
 J. Jordan, *Lt. 60th Regt.*
 David Meredith, *Lieut. R.R. Artillery.*
 E. Cartwright, *Lieut. 60th Regt.*
 John Robertson, *Lt. 60th Regt.*
 Saml. Gibbs, *Ens. 60th Regt.*

G. Westphal, *Adjutant 2nd Batt, 60th Regt.*
Jas. Henderson, *Surgeon.*

The above recorded at L'Assomption, in the District of Hesse, this 22nd day of June,
1790.
Register No. B, page 378.

T. SMITH, C.C.P.,
D. H.

End

Appendix B:

Source:

Superintendent of Indian Affairs in the Northern District of North America fonds,
MG 19, F 35- Superintendent of Indian Affairs Series 2 – lot 682
(reel H-2944)

(p.1)

C1)

Council Held at Detroit the 19th Day of May 1790. with the following Nations of Indians.

- (viz) “ Ottawa
- “ Chippawa
- “ Pottowatomy &
- “ Huron

Pres^t

Patrick Murray, Esquire, Major 60th Reg^t.
Commandant &c.
Alexander M^cKee Esq^r. D : Agent &c
Captain Porter }
Captain Ingram } 60th Regt.
Capt. Buller }
Capt. Grant, Naval Dep^t.
Lieut: Hepelbergh }
Lieut: Robertson } 60th Reg^t.
Lieut: Cortwright }
Lieut: Meredith. R.R. Artillery
Lieut: Gordan – 60th. Reg^t.
Lieut: Hanaw Naval Dep^t
Lieut: Ford — ditto
Ensign Gibbs 60th. Reg^t
Adjutant Westphal ditto
Surgeon Henderson d^o _
and
officers of the Militia, Principal Magistrates
and a Number of other Gentlemen, Citizens.

Sworn Interpreters { Isadore Chene
Simon Girty

Principal

(p.2)

Principal Chiefs }
of the }
Ottawa }
E.gouch.e.ouai
Wa.wish.kuy
Ni.a.ne.go

Nation

Ki.wish.e.ouan
Atta.wa.kie
O.na.gan
En.dash.in
Maug.gich.a.way

Principal Chiefs
of the
Chippawa
Nation }

Was.son
Ti.e.cami.go.se
Esse.bance
Ouit.a.nis.sa
Nangie
Cha.bou.quai
Wa.ban.di.gais
Mesh.qui.ga.boui

Principal Chiefs
of the
Pottowatomy
Nation }

Skno.nesque
E.sha.ha
Met.te.go.chin
Penash
She.bence
Key.way.te.nan

Principal Chiefs
of the
Huron
Nation }

Sasta.rits.ie
Ta.hou.ne.ha.wie.tie
Ska.hou.mat
Mou.do.ro
Te.ha.tow.rence .
Son.din.ou

(Signed)
Isadore Chene,
Interpretor

(p.3)

Dou.ywn.tet
Ted.y.a.ta
Tren.you.maing
She.hou.wa.te.mon
Meng.da.hai
Tsough.ka.rats.y.wa
Rou.mia.hy.ra

E.gouch.e.ouai. Chief
of the Ottawas in the
name of the Lake
Confederacy arose and
Spoke

Father. We are now within the Paternal House where every one is free
to Speak his mind; therefore Father, I request the same of our
Fathers the officers, our Brethren the Merchants and of all you
my Brothers of my own Colour, Indians of Different Nations.

(Signed)
Isadore Chene }
Interpreter }

Father. You have told us that you have received Letters from our
Father the General, and our Father Sir John Johnson acquainting you
that our Father the Great King had written to them, to know if We
would cede him a Piece of Land extending from the from the other
side of the River to the line of that ceded by the Messesagez.

Father.

(p.4)

Father, Is there a man amongst us who will refuse this request? What
man can refuse what is asked by a Father so good and so generous,
that he has never yet refused us any thing? What Nation? None Father!
We have agreed to grant all you ask according to the limits settled
between us and you, and which we are all acquainted with. We Grant
it you all Father, in Presence of our Fathers the officers and our
Brothers the Merchants. _

E.gouch.e.ouai }
speaking to the Hurons. }

Brothers. Altho' we have granted the Land on the other side of the
River to our Father, we have not forgotten you. We always
remembered Brothers what our ancestors had granted you, that is to
say Brothers, from the Church to the River Jarvais, as well as a piece
of Land commencing at the Entry of the River Canard extending
upwards to the line of the inhabitants, and which reaches downwards
beyond the River Canard to the Line of the Inhabitants.

(Signed)
Isadore Chene }
Interpreter }

Father. You have hears what I have said, I request you Father not to
suffer our Brothers the Hurons to be molested. And you Brothers the
Hurons, that you will not

molest

(p.5)

molest our Brothers the Inhabitants.

Father. This is all I have to say, I salute you, and all my Brothers here
present, as well as all the Indians of the Different Nations Present —
and as a proof that all we have agreed to is done from our Hearts —
We are ready to Sign our marks. —

Father. I Request you produce the Deed, the contents of which have
been already explained to us, that we may sign it in the presence of our
Fathers and Brothers.

T Smith. Acting }
Clk in Council }

(Signed) Isadore Chene.
Interpreter

Major Murray's ...
answer

I salute you in the name of our Father the Great King George, and in those of your Fathers the Commander in Chief, and Sir John Johnson who are appointed by his Majesty to watch over the Interests of his Children in this Country.

I return thanks to the Great Spirit through whose favour we have the happiness of meeting as one Family and shall inform his Excellency Lord Dorchester of the Unanimous and Dutiful manner in which you have complied with his Lordship's desire, by ceding to the King for the purpose of settling such of his Majesty's Subjects as may come to live upon

it.

(p.6)

it. The Country extending from Lake Erie to the Chennail Ecarte as far as its first Southern fork, thence by an East Line to River La Trance and along that River until it meets the Line of the Missesagui Purchase.

Your Fathers the Governor and Superintendent General ever attentive to fulfill the King's wishes for the general good of his Children have commanded us who are placed here under their authority to be equally regardful of the Ease and Comfort of the Indians, and of the welfare of the white Inhabitants: They have directed an ample consideration to be given you for the Land, and you have agreed with Captain Mackee upon the Sum, as fully sufficient.

The great King and those in office under him, in providing for the advantage of the white Inhabitants seek not to disturb the repose of any of his Indian Children; Such parts therefore of the territory which your Ancestors granted the Hurons your Bretheren as you have found requisite for the General Good that they should retain, is reserved for their occupation that they may in Common with the other Nations present remain under the care of a Father who is equally desirous of promoting their happiness, and able to protect them from oppression. –
Cap^t.

(p.7)

Captain M^c.Kee
Spoke . .

The Commanding officer having returned you thanks on behalf of your Father the King. It remains now only with me to pay you the consideration agreed upon, which shall be done tomorrow morning so soon as your several Nations are assembled for the purpose.

T Smith. a:c

A M^c:Kee D.A.I.A.

(p.8)

Extract of the Minutes of a Council held with the Indians at Detroit 19th of May 1790.

Appendix C:

Source:

Extract from the Journal of Indian transactions at Detroit Kept by Alexr. M^c.kee Esq. Deputy Agent from the 18th to the 22nd of May 1790, 16 November 1829, Office of the Deputy Superintendent General of Indian Affairs: Correspondence, 1789-1830, Library and Archives Canada. Microfilm Reel C-11014.

(23881)

Extract from the Journal of Indian transactions at Detroit Kept by Alexr. M^c.kee Esq. Deputy Agent from the 18th to the 22nd of May 1790.

May 18th. Some Huron Chiefs arrived and a Meeting was held with them in presence of the Lake Indians, where the Kings Medal was Confered at their own particular desire On One of their Chiefs who was appointed to fill the place of their Great Chief Susterage, whose name he assumed. This business being finished, we left them to Consult with each Other respecting the purchase of Land. _____

“ 19th. Finding that the Nations had not universally agreed in their Opinions respecting the Cession, I had a meeting with them, and settled matters so that they gave their unanimous consent and desired to have a public meeting in the Council Chamber that they may declare their sentiments and Expecte the Deed, which was accordingly done, I then informed them that the Compensation should be made them tomorrow, this day being too far advanced to accomplish it. _____

“ 20th. The Indians being again assembled, they received the Compensation to the Amount of Twelve hundred pounds Halifax Currency in the presence of the Commanding Officer & the Officers of the Garrison. _____

The

(23882)

May 21st. The Indians were employed in distributing amoust them the Clothing they received yesterday. _____

“ 22^d. I delivered them a Bullock and some Rum to make a Feast as Customary on such Occasions. _____

I Certify the forgoing Statement to be a true Extract from the Rcord of Indian transactions at Detroit, deposited in the office of the Indian Department at Montreal.

Office for Indian Affairs Montreal [signature] D. C. Napier
10th November 1829.

Bibliography

Manuscript Collections

Dummer-Powell Papers. Baldwin Room. Toronto Reference Library.

Frontier Wars Fonds, Lyman Draper Manuscript Collection, Wisconsin Historical Society.

Haldimand Papers. National Archives of Canada.

Office of the Deputy Superintendent General of Indian Affairs: Correspondence, 1789-1830,
Library and Archives Canada

Superintendent of Indian Affairs in the Northern District of North America fonds, Library and
Archives Canada

Treaties, Surrenders and Agreements. National Archives of Canada

War of 1812: Miscellaneous Records. Library and Archives Canada

Published Primary Sources

Brigham, Clarence S., ed., *British Royal Proclamations Relating to America*, Vol. 12,
Transactions and Collections of the American Antiquarian Society. Worcester,
Massachusetts: American Antiquarian Society, 1911.

*Collections and Researches of the made by the Pioneer and Historical Society of the State of
Michigan*. 40 vols. Lansing: Thorp & Godfrey, 1888.

Denny, Ebenezer. *Military Journal of Major Ebenezer Denny, An Officer in the Revolutionary
and Indian Wars*. Philadelphia: J. B. Lippincott & Co., 1859.

Fraser, Alexander, ed. *Third Report of the Bureau of Archives for the Province of Ontario*.
Toronto: L.K. Cameron, 1906.

Indian Treaties and Land Surrenders: from 1680 to 1890 in Two Volumes. Vols. 1-2. Ottawa:
Brown Chamberlin. 1891.

Kappler, Charles, ed. *Indian Affairs: Laws and Treaties*, Vol. 2 (Treaties). Washington:
Government Printing Office, 1903.

Lajeunesse, Ernest, ed. *The Windsor Border Region: Canada's Southernmost Frontier, A
Collection of Documents*. Ontario Series IV. Toronto: The Champlain Society, for the
Government of Ontario, 1960.

Shortt, Adam & Arthur G. Doughty, eds. *Documents Relating to the Constitutional History of Canada, 1759-1791*. Ottawa: S.E. Dawson, Printer to the King's Most Excellent Majesty, 1907. PDF E-book.

Smith, William Henry, ed. *The St Clair Papers: The Life and Public Services of Arthur St. Clair Soldier of the Revolutionary War; President of the Continental Congress; and Governor of the North-Western Territory with his Correspondence and other Papers*. 2 Volumes. Cincinnati: Robert Clarke & Co., 1882.

Secondary Sources

Aboriginal Affairs and Northern Development Canada. "Fact Sheet: Caldwell First Nation specific claim." Aboriginal Affairs and Northern Development Canada. Last modified 24 February, 2012. <http://www.aadnc-aandc.gc.ca/aiarch/mr/nr/s-d2006/02788bk-eng.asp>

Allen, Robert. *His Majesty's Indian Allies: British Indian Policy in the Defence of Canada, 1774-1815*. Toronto: Dundurn Press Limited, 1993.

Asch, Michael, ed. *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*. Vancouver: UBC Press, 1998.

James Axtell. "Ethnohistory: An Historian's Viewpoint", in *Ethnohistory* 26, no.1 (1979), 1-13. <http://www.jstor.org/stable/481465>

Beatty-Medina, Charles & Melissa Rinehart, Eds. *Contested Territories: Native Americans and Non-Natives in the Lower Great Lakes, 1700-1850*. East Lansing, MI: Michigan State University Press, 2012.

Bohaker, Heidi. "Reading Anishinaabe Identities: Meaning and Metaphor in *Nindoodem* Pictographs," in *Ethnohistory* 57, 1(2010). 11-33. Doi: 10.1215/00141801-2009-051.

Calloway, Colin. *Crown and Calumet: British-Indian Relations, 1783-1815*. Norman, OK: University of Oklahoma Press, 1987.

———. *Pen & Ink Witchcraft: Treaties and Treaty Making in American Indian History*. Oxford: Oxford University Press, 2013.

———. *The Scratch of a Pen: 1763 and the Transformation of North America*. Pivotal Moments in American History. Oxford: Oxford University Press, 2006.

———. *The Victory with No Name: The Native American Defeat of the First American Army*. Oxford: Oxford University Press, 2014.

Clarke, John. *Land, Power, and Economics on the Frontier of Upper Canada*. Montreal & Kingston: McGill-Queen's University Press, 2001.

- Cleland, Charles E. *Rights of Conquest: The History and Culture of Michigan's Native Americans*. Ann Arbor: University of Michigan Press, 1992.
- Cornwall, Julian. *Reading Old Title Deeds*. Birmingham: Federation of Family History Societies, 1993.
- Curnoe, Greg. *Deeds/Nations*. Edited by Frank Davey & Neal Ferris. Occasional Publications of the London Chapter, Ontario Archaeological Society Inc., Publication No. 4. London, ON: Ontario Archaeological Society Inc., 1996.
- Douglas, Alan. *Uppermost Canada: The Western District and the Detroit Frontier, 1800-1850*. Detroit: Wayne State University Press, 2001.
- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745-1815*. Baltimore & London: The Johns Hopkins University Press, 1992.
- DuVal, Kathleen. *The Native Ground: Indians and Colonists in the Heart of the Continent*. Early American Studies. Edited by Daniel K. Richter and Kathleen M. Brown. Philadelphia: University of Pennsylvania Press, 2006.
- Edmunds, R. David. *The Potawatomis: Keepers of the Fire*. The Civilization of the American Indian Series, vol. 145. Norman, OK: the University of Oklahoma Press, 1978.
- Flexner, James Thomas. *Mohawk Baronet: A Biography of Sir William Johnson*. Iroquois Books Series. Syracuse: Syracuse University Press, 1989.
- Gaff, Alan. *Bayonets in the Wilderness: Anthony Wayne's Legion in the Old Northwest*. Campaigns and Commanders, Gregory Urwin, general editor. Norman, OK: University of Oklahoma Press, 2004.
- Gates, Lillian. *Land Policies of Upper Canada*. Toronto: University of Toronto Press, 1968.
- Hamil, Fred Coyle. *The Valley of the Lower Thames, 1640 to 1850*. Toronto, University of Toronto Press, 1951; Reprinted 1973.
- Havard, Giles. *The Great Peace of Montreal of 1701: French-Native Diplomacy in the Seventeenth Century*. Translated by Phyllis Aronoff & Howard Scott. (Montreal & Kingston: McGill-Queen's University Press, 2001),
- Horsman, Reginald. "EGUSHWA (Agashawa, Augooshaway, Negushwa)". In *Dictionary of Canadian Biography*, vol. 4. University of Toronto/Université Laval, 2003. http://www.biographi.ca/en/bio/egushwa_4E.html

- . “The British Indian Department and the Resistance to General Anthony Wayne, 1793-1795”, in *The Mississippi Valley Historical Review* 49, No.2 (1962), 269-290.
<http://www.jstor.org/stable/1888630>
- Hurt, Douglas. *The Ohio Frontier: Crucible of the Old Northwest, 1720-1830*. A History of the Trans-Appalachian Frontier, edited by: Walter Nugent & Malcolm Rohrbough. Bloomington & Indianapolis: Indiana University Press, 1996.
- Ingram, Daniel. *Indians and British Outposts in Eighteenth-Century America*. Gainesville, FL: University of Florida Press, 2014.
- Jennings, Francis. *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*. Iroquois and Their Neighbours. Syracuse: Syracuse University Press, 1995.
- Jones, Dorothy. *License for Empire: Colonialism by Treaty in Early America*. Chicago: The University of Chicago Press, 1982.
- Long, John. *Treaty No. 9: Making the Agreement to Share the Land in Far Northern Ontario in 1905*. Rupert Land Record Society Series. Montreal: McGill-Queen’s University Press, 2010.
- Miller, Cary. “Gifts as Treaties: The Political Use of Received Gifts in Anishinaabeg Communities, 1820-1832”, in *American Indian Quarterly* 26, No.2 (2002), 221-245.
[Http://www.jstor.org/stable/4128460](http://www.jstor.org/stable/4128460)
- Miller, J.R. *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*. Toronto, University of Toronto Press, 2009.
- Miller, Robert J, Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg. *Discovering Indigenous Lands: The Doctrine of Discovery in English Colonies*. Oxford: Oxford University Press, 2010.
- Midtrød, Tom Arne. *The Memory of All Ancient Customs: Native American Diplomacy in the Colonial Hudson Valley*. Ithaca: Cornell University Press, 2012.
- Morin, Jean-Pierre. “Concepts of Extinguishment in Upper Canada Land Surrender Treaties, 1764-1862”, in *Aboriginal Policy Research, vol VII: A History of Treaties and Policies*, Jean-Pierre Morin, Erik Anderson, Dan Beavon and Jerry P. White, eds., Toronto: Thompson Books, 2010. 15-40.
- Nelson, Larry. *A Man of Distinction among Them: Alexander McKee and the Ohio Country Frontier, 1754-1799*. Kent, OH: The Kent State University Press, 1999.
- Ouellet, Fernand. *Economic and Social History of Quebec, 1760-1850: Structures and Conjonctures*. Translated by Robert Mandrou & Allan Greer. The Carleton Library No.

120. Toronto: Gage Publishing Limited in association with the Institute of Canadian Studies, Carleton University, 1980; French edition originally published 1966.
- Pryke, K.G. & L.L. Kulisek, eds. *The Western District: Papers From The Western District Conference*. Occasional Papers, no.2. Windsor: Essex County Historical Society; printed by Commercial Printing Co., 1983.
- Rotberg, Robert. "Biography and Historiography: Mutual Evidentiary and Interdisciplinary Considerations," in *Journal of Interdisciplinary History* 40 No.2 (2010). 305-324. <http://muse.jhu.edu/journals/jih/summary/v040/40.3.rotberg01.html>
- Skaggs, David, & Larry Nelson, eds. *The Sixty Years' War for the Great Lakes, 1754-1814*. East Lansing, MI: Michigan State University Press, 2001.
- Smith, Linda. *Decolonizing Methodologies: Research and Indigenous Peoples*. Second Edition. London & New York: Zed Books, 2012.
- Sosin, Jack. *Whitehall and the Wilderness: The Middle West in British Colonial Policy, 1760-1775*. Lincoln: University of Nebraska Press, 1961.
- Stark, Heidi Kiiwetinepinesiik. "Respect, Responsibility, and Renewal: The Foundations of Anishinaabe Treaty Making with the United States and Canada", in *American Indian Culture and Research Journal* 34, No.2 (2010), 145-164. DOI: <http://dx.doi.org/10.17953/aicr.34.2.j041450310818771>
- Steckley, John L. *The Eighteenth-Century Wyandot: A Clan-Based Study*. Indigenous Studies Series, edited by Deanna Reder. Waterloo: Wilfrid Laurier University Press, 2014.
- Sturtevant, Andrew. "'Inseparable Companions' and Irreconcilable Enemies: The Hurons and Odawas of French Détroit, 1701-38", in *Ethnohistory* 60, No.2 (2013), 219-243. DOI: 10.1215/00141801-2018936
- Sugden, John. *Blue Jacket: Warrior of the Shawnees*. American Indian Lives, edited by A. LaVonne Brown Ruoff, et al. Lincoln, NE: University of Nebraska Press, 2000.
- Surtees, Robert. "Land Cessions, 1763-1830," in *Aboriginal Ontario: Historical Perspectives on the First Nations*, Ontario Historical Studies Series, edited by Edward Rogers & Donald Smith. Toronto: Dundurn Press Limited, 1994. 92-121.
- Tanner, Helen Hornbeck, ed. *Atlas of Great Lakes Indian History*. Cartography by Miklos Pinther. The Civilization of the American Indian Series, Vol. 174. Norman, OK: University of Oklahoma Press, 1987.
- Taylor, Alan. *The Civil War of 1812: American Citizens, British Subjects, Irish Rebels, & Indian Allies*. New York: Alfred A. Knopf, 2006. Reprint, New York: Vintage Books, 2007.

- . *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution*. New York: Alfred A. Knopf, 2010. Reprint, New York: Vintage Books, 2011.
- Treaty 7 Elders and Tribal Council, with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter. *The True Spirit and Original Intent of Treaty 7*. Montreal & Kingston: McGill-Queen's University Press, 1996.
- Warren, Stephen. *The Worlds the Shawnees Made: Migration and Violence in Early America*. Chapel Hill, NC: The University of North Carolina Press, 2014.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*. New York: Cambridge University Press, 2011. First published 1991.
- Willaims, Robert. *Linking Arms Together: American Indian Treaty Visions of Lay and Peace, 1600-1800*. Oxford: Oxford University Press, 1999.
- Willig, Timothy. *Restoring the Chain of Friendship: British Policy and the Indians of the Great Lakes, 1783-1815*. Lincoln: University of Nebraska Press, 2008.
- Witgen, Michael. *An Infinity of Nations: How the Native New World Shaped Early North America*. Early American Studies, edited by Daniel K. Richter, et al. Philadelphia: University of Pennsylvania Press, 2012.
- Wulff, Frederick. *Alexander McKee: The Great White Elk: British Indian Agent on the Colonial Frontier*. Parker, CO: Outskirts Press, 2013.

Unpublished Sources

- Farrell, David R. "Detroit 1783-1796: The Last Stages of the British Fur Trade in the Old Northwest". PhD. Diss. University of Western Ontario, 1968. ProQuest (302389340).
- Moorman, David T. "The 'First Business of Government': The Land Granting Administration of Upper Canada". PhD Diss., University of Ottawa, 1997.
http://www.collectionscanada.gc.ca/obj/s4/f2/dsk2/tape17/PQDD_0014/NQ28362.pdf
- Nichols, David Andrew. "Red Gentleman and White Savages: Indian Relations and Political Culture after the American Revolution, 1784-1800". PhD. Diss. University of Kentucky, 2000. ProQuest (304604449).
- Surtees, Robert. "Indian Land Cessions in Ontario, 1763-1862: The Evolution of a System". PhD Diss., Carleton University, 1982. <https://curve.carleton.ca/2715b1bf-f421-4566-90b6-177939471d8d>

Willig, Timothy. "Restoring the Thin Red Line: British Policy and the Indians of the Great Lakes, 1783-1812". PhD. Diss., University of Massachusetts Amherst, 2003. ProQuest (305322085).