Compact, contract, covenant: aboriginal treaty-making in Canada

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'There is no end to relationship among the indians':[1] *Early Commercial Compacts*

Treaties between the Crown and Aboriginal peoples are one of the paradoxes of Canadian history. Although they have been an important feature of the country since the earliest days of contact between Natives and newcomers, relatively few Canadians understand what they are or the role they have played in the country's past. Unfortunately, even fewer non-Native Canadians appreciate that treaties are a valuable part of the foundation of the Canadian state. Whereas treaties were once central issues in Canadian life and resonated with most Canadians for centuries, they have declined in visibility and shrunk in perceived importance. This development is all the stranger, given the lengthy history of Canadian treaty-making and the rich diversity in the types of treaties that Aboriginal peoples and Crown representatives have fashioned.

What is a treaty? A common dictionary explanation holds that a treaty is a 'formally concluded and ratified agreement between states,' 'the document embodying such an agreement,' 'an agreement between individuals or parties, esp. for the purchase of property.'[2] In other words, treaties are formalized records of negotiated agreements between parties, usually states, but sometimes people. As with most human creations that endure, their form also evolves over time. To understand the history of treaty-making by First Nations and the Crown in Canada, it is necessary to define 'nations' or governments broadly. On both the indigenous and the European sides of the encounter, the parties, espe-

cially in the earliest stages of relations, were not governments as conventionally understood. In the case of First Nations, of course, non-Native scholars generally classify them as non-state societies, and consequently miss or misunderstand the way in which 'government' manifested itself in their communities.

Among the Europeans, too, the agencies that represented the overseas state were sometimes non-governmental. From the seventeenth to the nineteenth century, a commercial monopolist had usually been granted an exclusive licence to trade by its monarch. That was the case with Canada. Early French initiatives on the St Lawrence and in the Maritimes, and Britain's presence in mainland North America, took the form of companies granted a trade monopoly by their country's monarch. 'The Company of Adventurers of England tradeing into Hudsons Bay,' more commonly known as the Hudson's Bay Company, represented England in the North, while several companies, of which the Company of One Hundred Associates was the most enduring, flew the French flag on the St Lawrence. Both French monopolists on the St Lawrence and Hudson's Bay men in the North carried powers from their sponsoring sovereigns that went far beyond simple commercial rights. Royal authority made them quasi-governmental entities. For that reason the agreements they forged with First Nations should be understood as treaties.

Commercial compacts created from the seventeenth century onwards are only one example of the treaty-making tradition in Canadian history. Alongside these ententes between European fur traders and First Nations, systems of alliance developed in the latter part of the seventeenth century and flourished in the eighteenth. The treaties of peace, friendship, and alliance within these rival networks that were so prominent in Canadian history from the late seventeenth century onward developed directly out of the commercial relations between Native peoples and newcomers, and, like the earlier commercial compacts, manifested many of the same characteristics.

Similarly, the third type of treaty between First Nations and Euro-Canadians emerged directly, almost inevitably, from the vicissitudes and pressures of Britain's alliance system in the latter

half of the eighteenth century. Territorial treaties were agreements governing non-Natives' access to and use of First Nations' lands. They emerged in the 1760s and dominated relations between indigenous and immigrant peoples in Canada until the early 1920s. For half a century after 1923, the Canadian Crown suspended making treaties about territory with First Nations for a variety of reasons. When the practice resumed in the 1970s, it took forms that differed somewhat from the earlier territorial treaties. Canadians in the early twenty-first century are still attempting to work out and achieve consensus on this latest way of making formal agreements about territory between First Nations, and now also Inuit, and the federal government.

To explore the long, complex, and fascinating story of the evolution of treaty-making in Canada from commercial compacts through treaties of alliance to territorial treaties is the objective of this work.

The commercial agreements that emerged in early New France and then in the Hudson's Bay Company lands after 1670 were built on a foundation of indigenous treaty-making. European traders who came to the northern part of North America found both pre-existing trade networks into which they had to fit themselves, and pre-contact treaty-making practices that they had to learn and adopt. Although the many First Nations who occupied the northeast woodlands and subarctic region north of it were divided into hunting-gathering Algonkians and horticultural Iroquoians, all the indigenous societies of northeastern North America were engaged in trade of one kind or another. And that trade required them to establish amicable relations with Native trade partners through formalized agreements. (See map 1.)

The reason for inter-tribal trade was simple: variations in regional ecology meant that First Nations in one part of the country could produce some commodities but not others. Crop-growing Huron (Wendat) in what is now southwestern Ontario might produce a surplus of corn and the Petun, the Huron's neighbours, tobacco, but they had to trade with more northerly groups for many products of the hunt. Algonkians on the north


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shore of Lake Superior had access to copper, the only metal available to First Nations before the Europeans introduced iron, and that situational good fortune made them logical trade partners of less geographically favoured First Nations. Similarly, Atlantic peoples such as the Mi'kmaq had privileged access to maritime resources that provided them with parallel commercial advantages.[3] Regional ecological variation led to regional specialization of production by First Nations, and, inevitably, those conditions produced inter-tribal trade. Corn went north, tobacco went in all directions to fill the ceremonial pipes of First Nations in general, and copper transformed in a variety of ways was found far from the shores of Lake Superior. Trade among First Nations was an extensive, critically important reality long before Europeans turned up on the Atlantic shore.

For two First Nations to trade with each other, peaceful relations were required between them. Anyone from another group in Indian Country who was not recognized in some fashion as a friend had to be treated for reasons of safety as an enemy, actual or potential. To do otherwise was simply too risky in Aboriginal North America. Friendly relations were a prerequisite for trading safely. But how were such associations with strangers created?

The key to establishing and maintaining links was kinship. As tribal societies, pre-contact First Nations in northeastern North America organized themselves according to kin ties. Indeed, the concept of kinship was all-embracing and sometimes all-consuming among First Nations. As George Nelson, an exasperated non-Native fur trader, was later to put it, '... there is no end to relationship among the indians.' Kinship and sometimes also clan affiliations identified who a person was, who constituted his or her family, and, more important, who was obligated to show him or her friendship, hospitality, and support. If one did not know how another person was related in kinship terms, then it was impossible to know if that person was connected – a friendly person – or a potentially dangerous stranger. The notion of attempting to deal impersonally with unrelated people, whether in commerce or for any other purpose, was both alien and anathema to First Nations societies. One simply could not safely under-

take commercial transactions impersonally with strangers. First Nations society was in a sense a gigantic extended family of kin-related people for the good and sufficient reason that it had to be in order to function effectively.

First Nations had a variety of mechanisms to establish kinship. Most obvious was the kinship that derived from one's birth family. In a matrilineal society such as was found among woodlands Iroquoians, for example, the kin links might run through the mother's lineage to her family, rather than through the father, or perhaps through both. Second was the kinship that came from marriage. Indeed, one of the primary purposes of the institution of marriage was to establish linkages between different kin networks with complementary interests and ambitions. This behaviour was not much different from past Europeans' practice of using marriages to develop or cement political, economic, or strategic linkages that would benefit them individually, as a family, or, indeed, as a monarchical dynasty. Finally, First Nations in North America often simply ascribed kinship – what anthropologists label 'fictive kinship' – to bring into the orbit of kin relationship strangers with whom association was considered desirable, but who were ineligible for the establishment of kin links through marriage or birth. The upshot of these strategies of kin creation was that First Nations societies were vast networks of linked people that functioned more harmoniously, effectively, and with greater comfort and security than would have been possible without the institution of kinship.

Indigenous societies made kin of strangers, and then maintained those links, through ceremonies. One of the clearest examples of making kin emerged from First Nations' rituals associated with incorporating prisoners of war into the victorious community. This practice was necessary because community losses of population in warfare could dangerously weaken the group. Accordingly, it was common in North America for victorious First Nations to 'adopt' captives rather than execute them. If an individual was to be incorporated into a different society, he or she would be formally welcomed, cleaned and groomed, given fresh clothing, and feasted by the captive's new 'family.' In the

case of people from another First Nation, such as new trading partners, the community leadership would welcome the newcomers, smoke the ceremonial pipe with them, and provide a meal. In these instances, when the two parties got together again in future seasons, most likely to trade, the pattern of welcome, pipe, and feast would be repeated. The repetition of such protocol was effectively the renewal of the relationship that had been established earlier. Repetition of ceremony provided reassurance to both parties that amicable, peaceful relations still existed. In a world in which peace and trade were inseparable, such confirmations of continuing 'kinship' were essential for secure and productive relationships.

Examples of First Nations' practices in creating kinship among themselves were recorded in the early eighteenth century at Kahnawake, the Mohawk community on the south shore of the St Lawrence opposite Montreal. Kahnawake served as a home to Iroquois, most of them converts to Roman Catholicism, and as a base from which they often raided into the northerly Thirteen Colonies. Despite the fearsome reputation that Iroquois warriors have acquired in popular Canadian history, how the Mohawk of Kahnawake treated some of their captives when they got them back to the St Lawrence reveals a great deal about First Nations' practices in creating kin links. For example, a male prisoner might be adopted after a successful raid, even though some of his fellow warriors might have been tortured or killed on the trail back to Kahnawake or once the victors reached the settlement:

> The moment that he enters the lodge to which he is given and where he is to be kept, his bonds are untied. The gloomy attire which makes him appear a victim destined for sacrifice is removed. He is washed with warm water to efface the colours with which his face was painted and he is dressed properly. Then he receives visits of relatives and friends of the family into which he is entering. A short time afterwards a feast is made for all the village to give him the name of the person whom he is resurrecting. The friends and allies of the dead man also give a feast to do him honour: and, from that moment, he enters upon all his rights.[4]

On another occasion a non-Native New Englander, taken in a raid, was adopted into a family at Kahnawake. According to James Smith's recollection of his treatment on returning to the Mohawk village, he was welcomed effusively by an interpreter:

> My son, you are now flesh of our flesh and bone of our bone. By the ceremony that was performed this day, every drop of white blood was washed out of your veins. You are taken into the Caughnawage [Kahnawake] nation and initiated into a war-like tribe. You are adopted into a great family and now received with great seriousness and solemnity in the room and place of a great man. After what has passed this day you are now one of us by an old strong law and custom. My son, you have now nothing to fear. We are now under the same obligations to love, support and defend you that we are to love and to defend one another. Therefore you are to consider yourself as one of our people.[5]

James Smith verified the accuracy of the interpreter's statement. He commented, '... from that day I never knew them to make any distinction between me and themselves in any respect whatsoever until I left them ... we all shared the same fate.'

Kinship, whether innate or created through marriage or adoption, was a vital social glue for First Nations in North America. In some northerly hunting-gathering societies, kin ties among a group of male hunters were the criterion by which the individual band was established. More widely, some sort of kin tie was essential to overcome fear of any stranger as a potential enemy, and to ensure peaceful dealings with the outsider. Within First Nations in northeastern North America, kinship, often bolstered by clan associations, facilitated the formation and peaceful maintenance of relatively large settled populations of horticulturalists such as the Five Nations Iroquois or the Huron. Manufactured kinship also made dealings with strangers from other communities possible. In other words, kinship of various types was vital to the successful functioning of First Nations in northeastern North America, where contact between European and indigenous societies first occurred.

Given the motives that drove the early interactions of Native and newcomer in the future Canada, it was hardly surprising that European visitors quickly had to learn to navigate the protocols, including those for making kin, of First Nations. The English, Basque, and French who came to the North Atlantic shores, and later penetrated major waterways such as the St Lawrence and the Hudson, were lured across the ocean for one or more of four goals: fish, fur, evangelization, and exploration. To pursue any one of these objectives, the Europeans were dependent on First Nations. Even fishing would have been extremely dangerous in the face of First Nations opposition, and certainly the other three activities required Native cooperation.

The fur trade, which emerged by the early seventeenth century as the main focus of Native-newcomer relations in the Maritimes, Labrador, and Quebec, was especially dependent on First Nations. In 1534 in the Bay of Chaleur, French navigator Jacques Cartier's ship encountered some First Nations who 'set up a great clamour and made frequent signs to us to come on shore, holding up to us some furs on sticks.' After some exchange, the Indians 'showed a marvelously great pleasure in possessing and obtaining these iron wares and other commodities, dancing and going through many ceremonies and throwing salt water over their heads with their hands.'[6] It quickly became apparent that First Nations were essential to the trade, especially if the European companies wanted to limit their expenses in North America. Not only did indigenous people have valuable knowledge about the animals to be hunted and how to survive in the forests of the Northeast, but they also 'processed' some of the furs, brought the pelts to trading locations, and in many instances provided sustenance to European traders during at least parts of the year. In the case of the Hudson's Bay Company, dependence on indigenous skills and labour was especially great. Both French and British traders looked to the Natives to procure the furs to trade. In addition, however, the HBC, particularly during the first century of its operations, confined its personnel to posts on the shore of Hudson Bay. Accordingly, the British relied on First Nations to bring furs to them at their posts. In

short, the labour, knowledge, skills, and cooperation of First Nations were central to the successful prosecution of the fur trade. For that simple reason, European fur-trading enterprises learned very quickly to accommodate First Nations' wishes and practices, including the web of customs that concerned creating and maintaining harmonious relationships.

Within a decade of the founding of the Hudson's Bay Company in 1670, the directors of the English company were instructing their representatives in Rupert's Land to accommodate Aboriginal practice. In 1680 they wrote to John Nixon at York Factory:

> There is another thing, if it may be done, that wee judge would be much for the interest & safety of the Company, That is, In the severall places where you are or shall settle, you contrive to make compact wth. The Captns. or chiefs of the respective Rivers & places, whereby it might be understood by them that you had purchased both the lands & rivers of them, and that they had transferred the absolute propriety to you, or at least the only freedome of trade, And that you should cause them to do some act wch. By the Religion or Custome of their Country should be thought most sacred & obliging to them for the confirmation of such Agreements.[7]

Even though the Hudson's Bay Company Charter awarded the Company rights to land and governance as well as trade, the directors had quickly learned that First Nations were the actual proprietors of territory. It was necessary, they recognized, for their agents to obtain by means of a 'compact' Indian leaders' permission to use the navigation routes and trading sites that were critical to the trade. The Company's overseas representatives should secure ownership ('absolute propriety') to the terrain, or, more realistically, the exclusive right to trade with the Indians with whom they made the compact.

Evidence that the Company had also mastered at least some aspects of Aboriginal practice emerged in another part of the instructions to the governor at York Factory:

> As wee have above directed you to endeavour to make such Contracts wth. the Indians in all places where you settle as may in future times ascertain to us all liberty of trade & commerce and a league of friendship & peaceable cohabitation, So wee have caused Iron marks to be made of the figure of the Union Flagg, wth. wch. Wee would have you to burn Tallys of wood wth. such ceremony as they shall understand to be obligatory & sacred, The manner whereof wee must leave to your prudence as you shall find the modes & humours of the people you deal with, But when the Impression is made, you are to write upon the Tally the name of the Nation or person wth. whom the Contract is made and the date thereof, and then deliver one part of the Stick to them, and reserve the other.

'This,' the directors supposed, 'may be sutable to the capacities of those barbarous people, and may much conduce to our quiet & commerce, and secure us from forreign or domestick pretenders.'[8]

The Company's policy-makers saw fit to repeat these instructions to the men in charge of other posts, such as John Bridgar, two years later: 'There is another thing which we thinke of greate Moment and therefore recommend to your particular care and that is that you Endeavor to make such Contracts with the Natives for the River in & above Port Nelson as may in future times ascertain to us a right & property therein and the Sole Liberty of trade & Comerce there, and to make Leagues of friendship & peaceable Cohabitation with such Ceremonies as you shall finde tobee most Sacred and Obligatory amongst them.'[9] The Company repeated the same directions to Governor John Nixon: 'Wee have formerly Given our Instructions, and Wee now earnestly press it that you Endeavour to make such Contracts wth. the Natives for there Rivers and land as may in future times ascertaine to us a right and property therein, and the Sole liberty of Trade and Comerce and to make as Leagues of Friendship and peaceable Cohabitation with them, by such Seremonies as you shall finde to bee most Sacred and obligatory to them.'[10]

Placing these instructions to establish 'a league of friendship &

peaceable cohabitation' alongside the Charter that purported to give the Hudson's Bay Company powers in Rupert's Land reveals a significant contrast. By the Charter the king claimed that he 'Doe give grant and confirm unto the said Governor and Company and theire successors the sole Trade and Commerce of all those Seas Streightes Bayes Lakes Rivers Creekes and Soundes in whatsoever Latitude they shall bee that lie within the entrance of the Streightes commonly called Hudsons Streightes together with all the Landes and Territoryes upon the Countryes coasts and confynes of the Seas Bayes Lakes Rivers Creeks and Soundes ...' The Company nonetheless directed its men in North America 'to endeavour to make such Contracts wth the Indians in all places where you settle as may in future times ascertain to us all liberty of trade & commerce and a league of friendship & peaceable cohabitation.' The Charter also declared the Company 'the true and absolute Lordes and Proprietors of the same territory lymittes and places aforesaid,' but the instructions from London to Hudson Bay repeatedly emphasized the necessity to secure agreement from the local First Nations before proceeding.[11]

The contrast between the rhetoric of the Charter and the language of instructions to Company servants signified the reality that, whatever King Charles II might say, the true proprietors of what he styled Rupert's Land were the First Nations who occupied the territory. On the ground, and in practical terms, all the grandiose Charter of 1670 conveyed to the gentlemen adventurers was an exclusive right to negotiate. In other words, the Company's charter rights amounted to the right to negotiate with the indigenous peoples for access in order to trade. Moreover, by acting on the gap between royal rhetoric and North American reality in the way they did, the directors of the Hudson's Bay Company effectively entered into binding commercial compacts – 'contracts' in the language of the Charter – with the leaders of local First Nations groups. In other words, the Company engaged in commercial treaty-making.

The practices that the Hudson's Bay Company developed to establish profitable trading relations with First Nations contained

further revelations. It was not just that the directors in London instructed representatives such as Nixon and Bridgar to make commercial agreements but to do so by actions that 'By the Religion or Custome of their Country should be thought most sacred & obliging to them for the confirmation of such Agreements.' The men acting on behalf of the HBC on Hudson Bay were also to create physical confirmations of their pacts in a way that would be meaningful to the local First Nations, who were not, of course, literate in European languages. Instead of signed agreements, Bay men were to burn an insignia – 'the Union Flagg' – on two pieces of wood with 'such ceremony as they shall understand to be obligatory & sacred,' to give one of the inscribed tallies to the First Nation, and to 'reserve the other' for the Company. These measures were evidence that the Hudson's Bay Company was accommodating itself to indigenous protocols for making and commemorating agreements, as well as implicitly recognizing that First Nations controlled the territory in which the Europeans wished to operate.

Over time an elaborate trade ceremonial developed in Rupert's Land that embodied key elements of Aboriginal practice for maintaining fictive kinship relationships in trade. Most striking about the commercial etiquette that the Europeans learned to master was its formality. Trade, even within a commercial compact, was not a casual, purely businesslike transaction. Rather, trade was something that people in a close relationship engaged in only after important social observances occurred in a formal and ritualistic manner. As a First Nations party of traders got near a Hudson's Bay Company post in Rupert's Land, they made sure to stop short, and out of distance of the fort. One such stopping place near the mouth of the Rupert River on the east side of James Bay was called 'Dress-Up Creek.'[12] At such locations near the trading post, 'the women [would] go into the woods to get pine-brush for the bottom of the tents, while the Leaders smoke together and regulate the procession.' Leaders would collect an offering of one or two skins from each of the party, and they would prepare themselves to encounter the Europeans. If they were a large group, they would approach the post with their

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1.1 The welcome at a trading post incorporated Aboriginal protocol.

canoes 'to the number of between ten and twenty in a line abreast of each other,' with 'a small St. George or Union Jack, hoisted on a stick placed in the stern of the vessel' containing the man designated as their leader, or trading captain. As they drew nearer, they would fire several muskets 'from the canoes to salute the Fort, and the compliment is returned by a round of twelve pounders.'[13]

The rituals became even more elaborate after the visiting trading party landed. While the 'women set about pitching the tents' and making camp, the leaders proceeded into the post to greet the Hudson's Bay Company officers:

> The Governor being informed what Leaders are arrived, sends the Trader to introduce them singly, or by two or three together with their lieutenants, which are usually eldest sons or nighest

> relations. Chairs are placed in the room, and pipes with smoking materials produced on the table. The captains place themselves on each side of the Governor, but not a word proceeds from either party, until everyone has recruited his spirits with a full pipe. The silence is then broken by degrees by the most venerable Indian, his head bowed down and eyes immovably fixed on the floor or other object. He tells how many canoes he has brought, what kind of winter they have had, what natives he has seen, are coming, or stay behind, asks how the Englishmen do, and says he is glad to see them. After which the Governor bids him welcome, tells him he has good goods and plenty; and that he loves the Indians and will be kind to them. The pipe is by this time is [*sic*] renewed and the conversation becomes free, easy and general.[14]

When the preliminary conversation concluded, the first gift-giving took place as the post commander gave the trading captain and his principal men suits of clothing:

> A coarse cloth coat, either red or blue, lined with baize with regimental cuffs and collar. The waistcoat and breeches are of baize; the suit ornamented with broad and narrow orris lace of different colours; a white or checked shirt; a pair of yarn stockings tied below the knee with worsted garters; a pair of English shoes. The hat is laced and ornamented with feathers of different colours. A worsted sash tied round the crown an end hanging out on each side down to the shoulders. A silk handkerchief is tucked by a corner into the loops behind; with these decorations it is put on the captain's head and completes his dress. The lieutenant is also presented with an inferior suit.[15]

The suits were the Hudson's Bay Company's way of recognizing the special roles of the men they termed trading captains. They were also intended as a means of ingratiating the Company with the Native leaders.

The stage was now set for another critical element in trade ceremonial: the giving of gifts to the whole party. In this particular instance, by the post commander's orders 'a basket of bread and

prunes is brought and set before the captain, who takes care to fill his pockets with them before it goes out to be shared amongst his followers.' Two gallons of brandy, some tobacco, and pipes were supplied as well. The leaders who had been re-establishing the relationship ceremonially within the post now proceeded outside to the encampment that the Native visitors had set up:

> Everything being prepared he [the trading captain] is conducted to his tent with a procession. In the front are the spontoons [halberds] and ensigns, next the drummer beating a march, then several of the Factory servants bearing the bread, prunes, etc. Then comes the captain, walking quite erect and stately, smoking his pipe and conversing with the Governor and his officers; then follow the Second, and perhaps a friend or two who was permitted to come in with the Chief. The tent is all ready for their reception, and clean birch-rind or beaver coats are spread on the ground for the chief to sit on; and before him are deposited the prunes etc. The Chief then makes a speech to his followers, and then orders his lieutenant, or some respectable person, to distribute the presents, never performing this himself. I must take notice that the women and children are last served; the slaves get a little also.[16]

The visitors then spent some time enjoying the presents that the Hudson's Bay Company had provided.

Trade would commence on a subsequent day, and only after still more ceremony. The most important observance was the renewal of their association by smoking the calumet, or pipe, together:

> As the ceremony of smoking the calumet is necessary to establish a confidence, it is conducted with the greatest solemnity, and every person belonging to that gang is admitted on the occasion. The captain walks in with his calumet in his hand covered with a case, then comes the lieutenant and the wives of the captains with the present [of furs collected prior to the initial landing at the post], and afterwards all the other men with the women and their little ones. The Governor is genteely dressed after the English

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1.2 Smoking the pipe was an important element of kin-making ritual.

> fashion, and receives them with cordiality and good humour. The captain covers the table with a new beaver coat, and on it lays the calumet or pipe; he will also sometimes present the Governor with a clear beaver toggy or banian to keep him warm in the winter. The *Puc'ca'tin'ash'a'win* [gift of furs] is also presented. Then the Governor sits down in an arm-chair, the captain and chief men on either hand on chairs; the others sit round on the floor; the women and children are placed behind; and a profound silence ensues.

Then traders and visitors engaged in the all-important ritual. 'The calumet being lighted by the Governor, a servant holding the bowl and applying the fire, it is pointed towards the east,

south, west, and north parts of the hemisphere, also to the zenith, and nadir. Every man takes a certain number of whiffs as fixed by the owner of the pipe, and thus it passes round the circle. When out, it is delivered again to the Governor who repeats the manoeuvres as when he lighted it; at which all the men pronounce the monosyllable Ho! which is expressive of thanks.'[17]

The pipe ceremony was profoundly important in First Nations society. 'In North America, the primary purpose of the tobacco smoke is as an offering to the spirits.' By smoking together, pointing the pipe to the four directions, and above and below, the participants in the ceremony were invoking the Great Spirit, communicating with 'all my relations,' human and non-human, or their kin, and renewing their own relationship. This use of tobacco 'allows for communication with the spirits.'[18] Among the Iroquois, tobacco 'induced a state of mind that opened one to supernatural ceremonial contexts, a religious act.' Tobacco smoke 'was a gift that pleased spirit beings as reciprocation for their blessings.'[19] Récollet missionary Father Christian Le Clerq observed, '... the Indians hold no assembly without the calumet in their mouth; and as fire is necessary to take tobacco, they almost always light one in every council, so that it is all the same with them "to light a council-fire," and "have a place to visit each other, and assemble as relatives and friends who wish to speak and decide on their affairs."'[20] Lest there be any doubt about the symbolic importance of the pipe in the fur trade, a Hudson's Bay Company observer noted, 'Each leader leaves his grand calumet at the fort he trades at unless he is affronted, and not designed to return next summer, which is sometimes the case ...'[21] If the First Nation trading captain left his pipe at the post when departing, he was signalling that the relationship would endure, and that he and his companions would return next trading season.

During the pre-trade ceremonies, the Europeans engaged in other practices learned from Aboriginal people. As a sign of respect for the visitors, the Company would share its medicines with those of the trading party who were 'doctors,' or medicine men and women. And after the trading of furs was almost completed, the post commander gave the trading captain another gift

whose size was calculated according to the volume of business the captain had brought to the post:

> The traders have bargow [oatmeal porridge] made for them, and prunes are given them every day, and the leader gets a small bag of oatmeal and prunes at his going away, and if the person is a leader of fifteen or twenty canoes he dines every day with the Chief [principal trader] and officers, and receives the above present in full. But if otherwise several articles and indulgences are curtailed, and if he brings less than ten canoes, or any misfortune has befallen him, he is still looked on by the Chief in the former light as when he brought his former complement of canoes, which conduct in the Chief is a sure means of keeping up the Company's trade, and ingratiating himself into the natives' favour, who are a good natured people and very susceptible of wrongs done them.[22]

The trade ceremonies in which Hudson's Bay Company representatives engaged with First Nations were remarkable both for their extent and their alignment with First Nations' beliefs and practices. The whole string of events and practices – the fur-trade protocol – constituted the commercial compact. In other words, the relationship established in this way was the treaty.

Fur-trade kinship practices continued for some time in the western fur trade, whether the Europeans involved were Hudson's Bay Company men or not.[23] As a historian of the Hudson's Bay Company wrote in 1708, 'The Company, by their Governours and Agents, made such Compacts with the Captains or Kings of the Rivers and Territories where they had Settlements, for the Freedom of Trade there, exclusive of all others, that the *Indians* could not pretend they had encroach'd upon them. These Compacts were render'd as firm as the *Indians* could make them, by such Ceremonies as were most sacred and obligatory among them.'[24] Sixteen-year-old George Nelson, the fur trader from Lower Canada who complained that there was 'no end to relationship' among the Indians, found out first-hand on his initial journey west after being apprenticed to the XY or New

North West Company in 1802 that there was no end of customary practices, too. At the Grand Portage at the west end of Lake Superior, where fur brigades from the northwest rendezvoused with canoes from Montreal laden with trade goods for distant posts, he experienced another fur-trade custom, the *régale*. As Nelson put it, his companions 'feasted & got drunk upon the "régale" that was always given them when they arrived from, or departed for, their winter quarters.'[25]

More was in store for Nelson farther west. In the fall, 'the Indians took great pity upon me. One of them adopted me as his son, & told his own son, a lad of about my age, to consider me as his brother & to treat me so, and he did indeed the very few times we happened to meet after this.'[26] The next summer, another Indian named Le Commis decided it was time to make closer kin of Nelson. Through a companion-interpreter, Chaurette, Nelson tried to put Le Commis off. 'Chaurette told me that the old *fellow* wanted to give me his daughter ... I told Chaurette that it was impossible; that if my father was to know it he would be in the greatest rage with me; that beside I was yet only a boy'; and senior personnel in the fur trade company would take a dim view of such a step. Nelson held out initially, but with 'the men & every one else after me I at last was prevailed upon to take *her*. I did not much relish the thought.'[27] The *régale*, the adoption, and the country marriage to Le Commis's daughter that George Nelson experienced were all elements of Aboriginal kinship practices.

In addition to kinship links and securing permission from First Nations, fur-trade practices bequeathed another important institution to the general history of treaty-making in Canada: presents. Gift-giving was an important, expected part of fur-trade practice, whether it was a trading captain offering the furs of his followers to the post commander, or the Hudson's Bay Company post commander giving food, medicines, and liquor in return. Gifts were a symbol of goodwill towards another in Indian Country, and for that reason a powerful inducement to enter into a friendly relationship. According to Lumbee legal scholar Robert A. Williams, 'In Encounter era Woodlands Indian diplomacy, ritualized gift exchanges thus became peace treaties or at

least a part of the language used to communicate the message that a relationship of law and peace was desired with a potential treaty party.'[28] In some First Nation societies there was even a link between gifts and kinship. 'In Ojibwa idiom, to "pity" another is to adopt him and care for him as a parent or grandparent cares for a child. To give someone a gift with no thought of an immediate return was to "pity" him and thus in a sense to adopt him.'[29] 'When groups of Ojibway hunters traveled into territory occupied by the Dakota, they might turn potential enemies into friends by an exchange of goods as well as by a mutual smoking of tobacco in a calumet.'[30] After Okeemakeequid, an Ojibwa leader, exchanged clothing with a Dakota, the Dakota man called the Ojibwa 'Brother.'[31]

The gifts that Europeans gave First Nations were important both economically and symbolically. As an Onondaga warrior told an English official early in the eighteenth century, trade was what attracted some First Nations to visitors: '... antiently they made use of [Stone Pots] Earthen Pots, Stone Knives & Hatchets & Bows and Arrows, that after they had purchased from the Christ^{ns} Good Arms they conquered their enemies & rooted them out so that where they then inhabited is now become a Wilderness. Thus (they say) our first entering into a conven^{t} with you was Chiefly grounded upon Trade.'[32] Trade gave First Nations in the northeastern woodlands access to iron and iron products such as firearms, whose inaccuracy in the earliest years of contact made them more useful for their psychological than their ballistic effect. Sharp metal edges replaced the 'Stone Knives' to which the Onondaga had referred. Metal axes were much more efficient, both in war and the domestic sphere, than stone hatchets. Metal arrow heads easily pierced wooden armour that was impervious to most flint projectiles. Large metal pots, meanwhile, could be suspended directly over a fire and replaced smaller pottery vessels that did not travel well and required that their liquids be warmed by immersing a succession of heated stones in them. The introduction of hard metals in eastern North America revolutionized domestic life, hunting, and military practices.

However important the gifts obtained in trade were in a practical sense, they were at least as significant symbolically. As the Hudson's Bay Company had quickly learned, regular meetings, rituals, and gift exchanges were essential to reassure the parties of the other group's continuing goodwill and interest. Unless elaborate protocol that included gifts were followed, how could First Nations be certain that the other group had not swerved from friendliness to enmity in the period between meetings? First Nations had a rich vocabulary to express the many positive things that gifts did to facilitate a relationship. Presents removed emotional obstacles to trade – whether losses the party had experienced by death or past conflict – and enabled the participants to see clearly. Gifts 'wiped away the tears.' They also 'unstopped the ears' so that the party that received them could hear what was said to them clearly and accurately. And presents could also 'clear the throat' so that the parties could communicate honestly and fully. As Father Le Clerq remarked, based on his experience of Montagnais who brought a suspect into Quebec to surrender him to authorities, 'In fact, by presents they wipe away tears, appease anger, arouse nations to war, conclude treaties of peace, deliver prisoners, raise the dead – in fact, nothing is said or answered but by presents; hence in harangues presents pass for words.'[33] A Jesuit missionary commenting on the Five Nations, the influential Iroquois confederacy south of Lake Ontario, made a similar observation: 'Presents among these peoples despatch all the affairs of the country ... They dry up tears; they appease anger; they open the doors of foreign countries; they deliver prisoners; they bring the dead back to life; one hardly ever speaks or answers except by presents. That is why, in the harangues, a present passes for a word.'[34] Conversely, a failure or refusal to offer presents when the relationship and the occasion required them could offend and alarm the other party, as well as disappoint.

The English in New York, like their countrymen on Hudson Bay and their French rivals on the St Lawrence, also had to learn the language and protocol of presents. Their dealings were mostly with the Five Nations of the Iroquois Confederacy, peoples who were adept at forest diplomacy. In 1684, for example, the

Seneca sealed an agreement about territory with gifts: 'in token thereof (according to the Indian Custom) they make presents thereupon.'[35] In 1715 an Onondaga chief told the English at the end of a speech, '... we expect you will now new steel our Hatchet (meaning give them some presents).'[36] If the receipt of presents was significant for those who received them, so was the Europeans' failure to give gifts on occasions that called for them. In 1717, a chief of one of the Five Nations reported an ominous rumour to the governor, then added, '... but as this Acc^{t} did not come to them with any present according to the Indian Custom, they doubted the Truth of it.'[37]

Both France and England, the European powers that became influential in northeastern North America by the end of the seventeenth century, developed trade networks that depended on the commercial compacts they forged with First Nations. Although the Europeans did not realize it at first, their desire to explore and trade in the new continent drew them into the machinations of pre-existing alignments of First Nations. For example, Samuel de Champlain quickly became allied to the Montagnais in 1603. The explorer and cartographer, who knew that his ability to carry out his mission in New France depended on First Nations' forbearance and assistance, forged an agreement with Anadabijou, a Montagnais chief, who was engaged in a fierce rivalry with the Five Nations of the Iroquois Confederacy to the south. Champlain and his companions were warmly received and feasted in Anadabijou's lodge, and then subjected to a speech by a young Montagnais who had accompanied Champlain to France earlier:

> Now when he had ended his oration, the said grand Sagamore Anadabijou, who had listened to him attentively, began to smoke tobacco, and to pass on his pipe to Monsieur du Pont-Gravé of St. Malo, and to me, and to certain other Sagamores who were near him. After smoking some time, he began to address the whole gathering, speaking with gravity, pausing sometimes a little, and then resuming his speech, saying to them, that in truth they ought

> to be very glad to have His Majesty for their great friend. They answered all with one voice, *Ho, ho, ho*, which is to say yes, yes.

The chief continued his speech: '... he said that he was well content that His said Majesty should people their country, and make war on their enemies, and that there was no nation in the world to which they wished more good than to the French. Finally, he gave them all to understand the advantage and profit they might receive from His said Majesty.' Champlain's pressing need for allies made it desirable to establish such a relationship. It would also be the case a few years later when he assisted the Huron against their Iroquois enemies on Lake Champlain. Anadabijou's interpretation of his exchanges with Champlain is revealed in the fact that the following morning he told his followers 'that they should break camp to go to Tadoussac, where their good friends were,' to trade.[38]

Just a few years later, in Acadia, the French established a similar relationship with a Mi'kmaq chief. In 1606 at Port Royal, Jean de Biencourt, sieur de Poutrincourt, and Chief Membertou exchanged gifts and speeches of friendship.[39] By creating reciprocal relations Poutrincourt, like Champlain north of the St Lawrence, was entering into a kinlike relationship that would pave the way for an enduring Mi'kmaq-French relationship for trade and diplomatic alliance.

South of the St Lawrence, in what would evolve into the northeastern United States, similar commercial pressures were at work. The Dutch, the first power to establish itself at New Amsterdam at the mouth of the Hudson River, entered into a pact with the Mohawk, easternmost of the Five Nations Iroquois, by formal agreement in 1645. Iroquois tradition claims that there was a commercial agreement between the Mohawk and Dutch in 1613. The more reliable date is probably 1645, three years after Arent van Curler set the stage for a treaty by an extended journey through Mohawk territory following all the elaborate protocol that relations required. At Fort Orange (later Albany), Governor Willem Kieft concluded a treaty between New Netherlands and the Mohawk Nation.[40] This pact initiated a long period of com-

mercial relations for the Dutch in which van Curler was an essential go-between for Dutch and Mohawk. For the Europeans the motive was the same one that had moved the Hudson's Bay Company to engage in ceremonies with northern First Nations: to secure an agreement that would enable them to trade in the area controlled by the First Nation. To be able to locate and operate out of Fort Orange on the upper Hudson River, the Dutch merchants needed the permission of the Mohawk. From the Mohawk perspective, they established the pact with the Dutch to secure access to European goods.

When the English replaced the Dutch in what they named the colony of New York in 1664, the same commercial dynamics operated in precisely the same manner as before. The continuity of European practice underlined the importance of the First Nations in the commercial relationship. The English soon entered into agreements with the Mohawk that were replicas of the previous arrangements between the Mohawk and the Dutch. New Amsterdam became New York, and Albany replaced Fort Orange, but the lineaments of the trade, including commercial compacts between First Nation and Europeans, persisted.

While the Europeans did not at first understand that their agreements with the nearby First Nations drew them into relationships or networks that the First Nations had created long before Europeans arrived, they did comprehend the geographical imperatives that made commercial compacts necessary. From the Atlantic, access to the interior of the northerly portion of North America, where the best furs were to be found, was possible via three bodies of water: Hudson Bay, the St Lawrence River, and the Hudson River. The English would command the most northerly route, with one brief interruption in the late seventeenth century when the French temporarily evicted them from Hudson Bay. The French followed Basque and French fishing vessels and whaling boats into and up the St Lawrence, tentatively with Jacques Cartier's voyages between 1534 and 1542, and more permanently with the founding of Port Royal in Acadia and Champlain's explorations and establishment of an *habitation* at Quebec in the first decade of the seventeenth century. (The

French hold on the St Lawrence was suspended during 1629–32 when English adventurers operating with a royal commission captured the fledgling settlement at Quebec.) The English, of course, followed the Dutch up the Hudson River to the south.

Geography dictated that each of the water access routes would lead the respective European traders who probed them into more distant river networks, and along those interior rivers to a wide diversity of First Nation commercial partners. Hudson and James Bays were the outlet of a vast network that traversed what is now northern Quebec and Ontario, and north-central Manitoba, Saskatchewan, and Alberta, and that ultimately led by a strategically important portage in Saskatchewan to the Athabasca country, the Mackenzie River, and the Beaufort Sea. From the St Lawrence River, French fur traders and explorers were introduced by First Nation guides to a network of rivers that allowed them to range through most of northern Quebec via waterways that in some cases emptied into James Bay. To the west the French would learn to use the Ottawa River, which led northwestward to Lake Nipissing and the upper Great Lakes. Or they pushed up the St Lawrence, which took them to the lower Great Lakes and a series of access points leading to the upper Great Lakes and the North, as well as an inland empire south of the lower Great Lakes. (See map 2.)

Finally, the English soon found that commercial relations with the Mohawk, the 'Keepers of the Eastern Door' of the Iroquois League, facilitated communication with the Mohawk River, which ran from the west into the Hudson, and with the lower Great Lakes and the same internal river empire that the French could reach via the St Lawrence.[41] Iroquoia, the land of the Five Nations in the Finger Lakes region of New York, had the height of land running through it. What that topography meant was that from Iroquoia one could make one's way north to the lower Great Lakes, south by the Delaware River to an outlet on the Atlantic south of the Hudson, and also south via the Susquehanna River to the ocean outlet known as Chesapeake Bay. From Mohawk territory it was also a short portage into the Lake Champlain–Richelieu River route that took voyageurs into the centre

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of France's St Lawrence colony. In other words, Iroquoia was at the heart of a vast water network.

Constellations of First Nations were oriented to each of the riverine routes into the interior of the northern part of North America. Hudson's Bay Company traders would encounter Innu and Montagnais in northern Quebec, and a variety of Algonkian and Dene peoples in the western and far northwestern reaches of

Rupert's Land. French traders operating out of the drainage system provided by the St Lawrence and its tributaries would find themselves dealing with Innu, Montagnais, and James Bay Cree to the north and northeast, several different Algonkian groups to the northwest, and Huron and a range of Algonkian groups to the west and southwest. Huronia, like Iroquoia, lay at the centre of a network of waterways that provided the Huron with access to northern, northwestern, southern, and southwestern First Nations and their trade goods. The English based in Albany soon learned that they had to exploit the fur-trade connections through the Mohawk, whose Iroquois name, Keepers of the Eastern Door, was not a collection of empty words. The Mohawk, like the Huron and Montagnais with the French, swiftly positioned themselves to act as commercial go-betweens with the Europeans and more inland First Nations who did not enjoy the immediacy of contact with the strangers that the geographically favoured nations did.[42]

Over the lengthy, sometimes troubled, history of the fur trade in the northeastern woodlands and the subarctic, there emerged a persistent pattern of interior nations trying to find a way around the indigenous intermediaries to trade directly with the Europeans. The intermediaries, in turn, worked determinedly to maintain their control of trade between newcomers and interior First Nations. Every link in the chains, or networks, of fur-trading partners – whether European and Mi'kmaq, Montagnais, Huron, or Mohawk, or Huron and Petun, or Mohawk and Susquehanna – was embodied in a commercial relationship formalized according to the Aboriginal protocol that the Hudson's Bay Company and Champlain had so quickly learned to adopt. If it was true, as George Nelson ruefully learned, that there was 'no end to relationship' among the Indians, it was equally the case that there was no end to the commercial compacts that competing fur-trade networks required to function effectively.

One final feature of the geographically based trading systems was vital: the further reaches of the networks overlapped. Whether it was Iroquois and Mi'kmaq competing in Acadia, or the Seneca – the Keepers of the Western Door in the Iroquois League

– in trade rivalry with any number of Algonkian First Nations to their west and southwest, those at the margins of the extensive networks found themselves in sharp competition and conflict with other First Nations. What this harsh reality meant in practice was that First Nations at the edges found themselves subject to competing pressures and dangers. The Seneca, for example, were located where New France's network of allies in the west and southwest overlapped with Albany's focused on the Mohawk and their Five Nations kin. They were the part of the Iroquois League that was least comfortable with a firm partnership with the English on the Hudson River. Unlike the Mohawk, Keepers of the Eastern Door, who were the principal beneficiaries of trade with the English and who had to worry only about infrequent raids from Canada that moved along the Richelieu River–Lake Champlain corridor, the Keepers of the Western Door had to deal with the most worrisome side effects of the Albany commercial partnership and the minimum of its benefits. These realities that flowed from the geographical underpinnings of the European–First Nation fur trade were the political consequences of commercial linkages. These political realities were a reminder that commerce and politics were inseparable in Aboriginal North America.

The fur trade, the second major industry of Canadian history after the fishery and one of the four motives Europeans had for approaching Canada from the Atlantic shore, brought First Nations of the northeastern woodlands and the subarctic, on the one hand, and European merchants, on the other, together for mutually beneficial commercial purposes. For the European newcomers, relatively few in number, unprepared for the North American woodlands, and heavily dependent on the First Nations for successful trade and even for survival, their commercial ambitions compelled them to adapt themselves to the First Nations who outnumbered them and exceeded them in locally relevant knowledge and economically essential skills. From the perspective of First Nations in the woodlands, the newcomers might have sophisticated trade goods that Natives wanted, but they were

clearly the subordinate party in the relationship. Europeans had to fit themselves into a pre-existing Aboriginal trading system. Accordingly, it was the Europeans who adjusted to First Nations' protocols and standards, rather than the other way around, in the fur trade. Given the centrality and importance of kinship in the shaping of First Nations' social relations, the European fur traders had to enter into fictive kinship relationships that made meaningful and effective the commercial compacts. Moreover, since the various transportation systems on which the competing French and English relied to pursue the fur trade brought them into commercial partnership with different First Nations, European involvement in the fur trade meant their engagement with rival First Nation trading systems. In short, trade linkages led inexorably to political associations and enmities. Commercial compacts, an economic form of treaty, soon drew the parties in the northeastern woodlands into political alliances.

2

'Trade & Peace we take to be one thing':[1] *Treaties of Peace, Friendship, and Alliance*

As the Dutch, English, and French all found in their pursuit of North American furs, there was a close and indissoluble link between commerce and diplomacy among First Nations. A spokesman for one of the Iroquois nations expressed the connection clearly at a conference at Albany in 1735. On behalf of the Six Nations, he objected to a recently concluded agreement between New York and New France because the English, supposedly their allies, had agreed that the French might establish a post at Oswego, in territory the Six Nations considered theirs. 'Trade and Peace we take to be one thing,' he complained. For Iroquois leaders, an agreement to allow the French to trade in proximity to them was not just a commercial entente; inevitably it was a diplomatic pact because trade and peaceful relations were two sides of the same coin. As European fur traders had found in the seventeenth century, in order to pursue commercial objectives, they also had to perform diplomatic rituals of establishing and maintaining relationships with First Nations via fictive associations. The commerce-diplomacy link worked the other way, too. If the English were now contemplating opening up trade with the French in Iroquoia, they were *de facto* entering into a peace arrangement with them as well. From Europeans' perspective, peace and friendship treaties were the second stage of treaty-making, following commercial compacts and preceding treaties dealing with territory.

The diplomatic agreements between First Nations and Europeans were built on pre-contact foundations. Europeans inher-

ited sets of relationships and rivalries among Aboriginal peoples into which the newcomers had to fit themselves. But, as in the case of commercial relations, the insertion of the Europeans, with their different interests and strengths, into pre-existing political systems complicated and modified indigenous alignments. The European powers sought First Nations as allies and comrades in arms by means of treaty relationships. And over time the alliances between First Nations of the northeast woodlands and the Dutch, English, and French increasingly involved warfare. The reason for the newcomers' aggressive pursuit of alliance, particularly from the late seventeenth century until about 1760, was that French and English were increasingly vying for control of North America. In the Maritime region that France called l'Acadie (Acadia), along the St Lawrence River and its principal tributaries, in the *pays d'en haut* (the upper country to the west), and in the region southwest of the lower Great Lakes, major European powers attempted to win First Nations' support and alliance in order to defeat their rivals and gain control of the territory and trade. By the 1750s it was obvious that the decades of on-and-off warfare were taking their toll of both Natives and newcomers. For First Nations, the cost of the recurrent wars was principally life and limb. For the Europeans, especially the British, the long period of territorial rivalry drove them towards modifying how they dealt with First Nations. Out of those policy preoccupations dramatically new forms of British–First Nations relationship consequently emerged in the period between 1755 and 1763. The era of peace and friendship treaties had major ramifications for both Natives and newcomers.

From the very first days of their presence in northeastern North America, Europeans encountered First Nations well versed in creating political agreements among themselves by means of kinship and ritual. In the East, the clearest examples of the phenomenon were the Huron Confederacy and the Iroquois League. The Huron Confederacy appears to have emerged sometime between the 1440s and 1550s or perhaps later, but the paucity of archaeological evidence makes it difficult to date by non-Aboriginal

methods. For the Huron, who occupied a strategically important region southeast of Georgian Bay, such considerations were immaterial. (Their view was that the association formed about 1440.) What mattered to them was that initially two, and eventually four, tribal groupings came together into larger political communities. The level of political organization and commonality in these pre-contact systems was not great. The principal purpose of the confederacy that the Attignawantan and Attigneenongnahac nations established was the elimination of blood feuds that were the cause of most inter-tribal war between them. To that end, the new association established a confederacy council of headmen from the groups who convened regularly to resolve disputes, especially those that previously had sparked bloody retaliation. They also participated in feasts and discussions of common interest. The Confederacy does not appear, however, to have had any broader powers, such as common military action, whether defensive or offensive.[2] Indigenous societies placed a high premium on avoiding coercion of other members of their groups. This value limited the degree of political organization and the extent of coercive power within First Nations organizations in the pre-contact and early post-contact periods.

Evidence that kinship was a key element in the formation of larger political entities such as the Huron Confederacy was plentiful. As was common among all Iroquoian peoples, the Huron had elaborate kin linkages through the mother of the family. In addition to these kin ties, all Huron identified as members of a particular clan. There were eight clans – Turtle, Wolf, Bear, Beaver, Deer, Hawk, Porcupine, and Snake – and perhaps as many as fifty clan segments, or subdivisions of the clans. Clan structures were replicated in all four Huron nations, meaning that a member of the Attignawantan nation automatically had clansmen and -women in each of the other three nations of the Confederacy. Members of one's clan in another nation had obligations of hospitality, friendship, and protection that a visitor could invoke. Such ties not only eased the lot of Huron who visited another nation of the Confederacy for one reason or another, but also discouraged violence or even retribution

against a visitor who was seen to have done something antisocial. Such a visitor's clansmen were obliged to intervene to protect the Huron outsider. If the Huron from another nation committed a major transgression, such as murder, some form of material compensation would be negotiated to dissuade the aggrieved kin of the victim from exacting retribution in the form of retaliatory violence against the nation of the Huron who had transgressed. For a major wrong, such as the murder of a prominent chief or a European missionary, many clan segments would contribute to the compensation for the aggrieved.[3]

The Huron Feast of the Dead was a mechanism of social integration on a large scale. Approximately every ten years, a major village would reinter the bones of those who had died in the previous decennial period. Remains that had been buried elsewhere would be repatriated to the village, and guests would be invited to attend the ceremony from communities with which the host village had good relations. The Feast as a whole took ten days, with eight of them devoted to the preparation of the bodies for reburial. On the ninth day, people would take the bones of their family members to a large, common burial pit, along with many new beaver pelts and presents. First, the bodies of the recently deceased would be installed on a bed of beaver pelts in the bottom of the pit. Then all would remain at the site overnight with the bones of the remaining deceased. At sunrise the skin bags that contained the bones would be emptied into the ossuary following the instructions of the Feast director. Other men in the pit would arrange the bones, ensuring that the remains of different people were mixed together. A quantity of presents would also be provided in the new grave. After the reburial was complete, the burial pit would be covered carefully, the presents that had not been interred would be distributed, and the crowd would disperse. The symbolism of the elaborate event was clear: by mingling the bones of their departed, the Huron reinforced the links between the living. Moreover, the sustained metaphor that was used to describe the stages of the Feast was 'the kettle,' evoking the symbolically powerful notion of all eating from a single kettle. Since their ancestors slept together in a common grave after the

Feast of the Dead, the living should strive to maintain good relations among themselves. The Feast of the Dead, in other words, was a potent symbol of Huron unity.[4]

Although the Five Nations of the Iroquois League did not observe the Feast of the Dead, there were strong similarities between their unifying mechanisms and those of the Huron. Indeed, their name for themselves, Haudenosaunee, People of the Longhouse, connoted a single community that lived together. According to their creation stories, the Great Spirit had placed them in Iroquoia, the region south of the lower Great Lakes stretching roughly from the Hudson River on the east to the Genesee River on the west. (See map 2.) They and all other humans lived on a land that rested on a turtle's back, yielding the Iroquois name Turtle Island for earth.

As with the genesis of the Huron Confederacy, dating the emergence of the Iroquois League is difficult. The Iroquois themselves said it formed thanks to the lessons, often termed the Great Law, taught by Deganawida and his spokesman Hiawatha about the middle of the fifteenth century. Over all there was a Grand Council composed of fifty sachems, most of whose preoccupations were with cultural matters. Given the First Nations' emphasis on consensus and group harmony, all decisions had to be unanimous. No unanimity, no decision.

A large portion of the Grand Council's work concerned the Iroquois rituals known as 'condolence' and 'requickening.' When groups which had a relationship got together after a period apart, each would 'condole' the losses the other had suffered. Presents were distributed to 'dry tears.' When a sachem died and was replaced, or when a prisoner was adopted, the person would be 'requickened,' signifying entry into a new office or family status. The condolence and requickening protocols were mechanisms for promoting inter-group harmony, and it was no accident that Iroquois treaty-making took the form of condoling and requickening the Five Nations' links with partners.

Like the Huron, Iroquois society also relied heavily on clans to establish and maintain social harmony. Among the Five Nations (Six Nations after the Tuscarora moved north and joined the

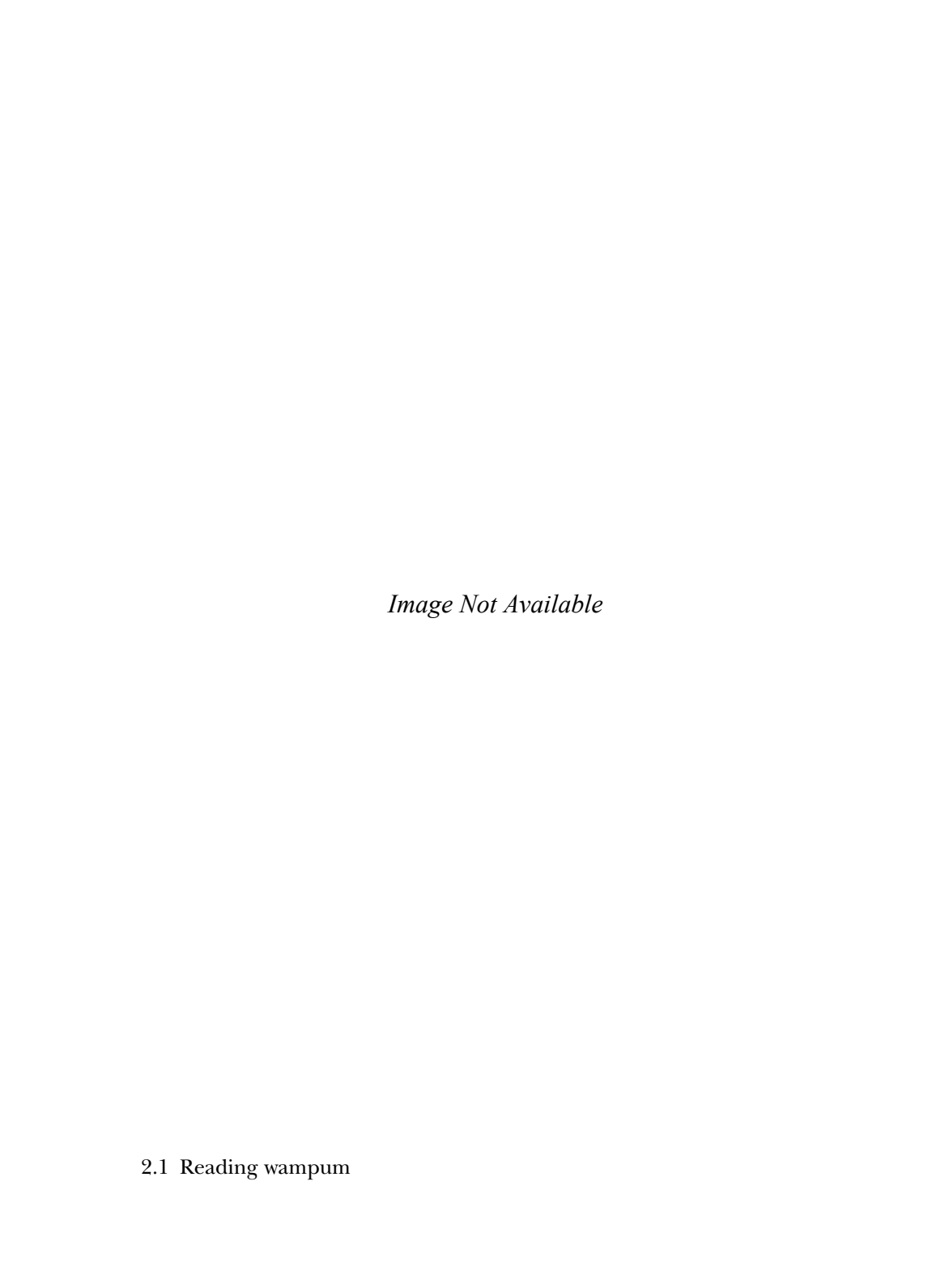
Confederacy in 1723), clan identities produced the same social effects as among the Huron. Members of a particular clan owed duties of friendship, hospitality, and protection to fellow clan members, no matter how distant they were geographically. Clans were particularly important in the key rituals of condolence and requickening. The role of clans also extended into the political realm – not that the dividing line between ritual and politics or the barrier separating politics and economics was distinct. It was here that the role of Iroquois women became especially visible. Clan mothers provided leadership to women in a clan segment among this matrilineal people, and clan mothers were charged with the duty of selecting the sachems who played roles as political representatives in the councils of the Iroquois. Like the Huron Confederacy, the Iroquois League had effective institutions and practices that acted as a social glue in the society.[5]

Many of the pre-contact social customs were carried over after contact with the Europeans and influenced treaty-making between newcomers and Natives. For example, the format of European-Iroquois negotiations followed the steps of the condoling-requickening ceremony, though Europeans did not realize it.[6] As well, diplomacy between Indians and Europeans was carried on in the indigenous language, even at Albany.[7] The names or titles that woodlands First Nations gave the leaders of the French and English in North America illustrated clearly the role of personality and personal links between individuals in political relations. At first the Huron and later all First Nations in the northeast woodlands called the French governor Onontio, or Great Mountain, a rendering of the name of the first French governor (1636–48), Charles Huault de Montmagny.[8] French governors came and went, but in council they were all addressed as Onontio by First Nations. Over time, however, treaty parleys between the French and their allies moved from a rhetoric of fraternity to a rhetoric of paternity. The transformation of the king from brother to father in speech-making reflected an important shift in the relationship.[9]

To the Iroquois the governor of the colony of New York, the officer with whom they dealt diplomatically, was always known as Corlaer. The origins of the title were similar to the French situation. The first Dutch representative to establish good relations with the Mohawk, the easternmost of the Five Nations, in the 1640s was Arent van Curler. Before long, van Curler became Corlaer, and when the Dutch were replaced by the English in the 1660s, the chief representative of the British newcomers inherited the title, Corlaer, that had originated with a Dutchman.[10] (The Iroquois were especially tenacious in their naming of prominent non-Natives whose activities affected them. The English translation of their name for the president of the United States is 'Town Destroyer' because the first American president, General George Washington, had played a destructive role in the Sullivan-Clinton military campaign that laid waste to towns in Iroquoia in 1775.)[11] Such labels for the leaders of the European groups illustrated both the power of personal relationships in Aboriginal societies and great continuity of practice.

An extremely important example of pre-contact First Nations practice that carried over into their relations with Europeans was wampum. Wampum took several forms: necklaces (or collars), strings, belts, or aprons, principally. Whatever the form, wampum in pre-contact times was constructed of two types of shells held together with a thread of deerskin. White shells were collected from maritime creatures known as periwinkles, while purple or black shells came from the quahog, a large hard-shell clam.[12] White wampum was associated with positive events, such as making peace, while purple or black was associated with death or war. According to the Iroquois founding legend, the wampum shells were words that relieved problems and helped to restore equanimity. Wampum 'carried an inherent spiritual power in addition to serving as mnemonic devices that recorded transactions.' Contact introduced glass beads, with which wampum could be made, but shell wampum remained the preferred form, especially for diplomacy.[13]

Whether pre- or post-contact, the uses of wampum were several and critical in conducting diplomacy. In many ways, wampum was



2.1 Reading wampum

like presents in general: it dried tears, opened ears, eased feelings of anxiety, and so on. It was routine practice in councils for Iroquois speakers, for example, to begin with expressions of condolence for losses their allies had suffered since their last meeting, followed by presentation of wampum to ease the pain. Wampum, however, had other specific functions in negotiations. It was a mnenomic, or memory-assisting device, a First Nations' archives in effect. Wampum belts recorded important discussions and agreements between nations, especially matters of peace and war. At subsequent councils, a First Nations speaker would remind the other party to the agreement by reading the wampum, that is, holding up the belt that commemorated the pact and going through the terms of the understanding between the parties that were recorded on the wampum 'document.'

Messages circulated to another nation that broached the possibility of their combining in war against others, or, conversely, overtures to make peace, had to be accompanied by wampum or they would not be accepted as credible and binding. In June 1714 Five Nations representatives met with Corlaer at Albany and agreed to defer a diplomatic mission to Canada until the New York governor had gone to Onondaga to speak with the sachems. 'This request the Sachems complied with & promised to send to morrow a Belt of Wampum to stop the s^{d} Deputation.'[14] In these circumstances, a belt that was accepted indicated a willingness to pursue the course proposed; a wampum declined signified rejection. At a memorable council with the Iroquois in 1694, French governor Frontenac was presented with wampum belts conveying three propositions for discussion. 'The Count kicked away these three propositions or Belts, and by this mark of contempt and haughtiness, indicated to the proudest nation throughout this New World his indifference for peace.'[15] In 1724 the Iroquois in council at Onondaga debated a proposal by Onontio that the Iroquois permit him to build two forts in their territory, one at Niagara and the other at Oswego. 'The said Belt was produced at Onondaga & the Gov^{r} of Canadas Proposal debated by the Assembly there ... But the s^{d} Assembly rejected the Belt & Proposal of the Gov^{r} of Canada, & it was resolved that the Belt should

be returned him & a Message sent to him that he should not be admitted to build any Fort on their Land.'[16]

Conversely, any such message that was not accompanied by wampum was regarded as not serious. In 1738 when Laurence Claasse, an interpreter for the colony of New York, attempted to dissuade the Seneca from going to war against the Cherokee and Cattawba in the south, 'they made answer that he was certainly jesting with them for if Corlaer wanted them not to go he ought according to Custom to have sent a Belt of Wampum, but as Laur. Claasse spoke without one they should not lay aside their Expedition.'[17] The ways that First Nations diplomats used wampum were impressive both for their multiplicity and, sometimes, subtlety.

One of the striking features of post-contact diplomacy between indigenous leaders and European newcomers was the way in which the latter adapted to the use of wampum and sometimes became masters of it. Both French and British representatives, once tutored by Native allies, learned to appreciate and to practise the premium that First Nations placed on both diplomatic oratory and devices such as presents and wampum. North of the St Lawrence, a military man such as Louis Buade, Comte de Frontenac, governor of New France (1672–82 and 1689–98), took quickly to the methods of forest diplomacy and established his credentials with First Nations. His innate vanity, love of display and feasting, and bravura performances made him an effective diplomat.[18]

Very different in personality, not to mention the Crown that he served, William Johnson of New York from the 1750s till his death in 1774 was a master of diplomacy. From his manor and estates in the Mohawk Valley, Johnson used his trade among the Indians, and from 1755 his appointment as superintendent of the northern Indians, as instruments to expand his influence. Thanks in no small part to his marriage to Molly Brant, a Mohawk clan matron, he was adept at couching British policy in terms attractive to the Iroquois. Johnson was skilled in lavish oratory, gift-giving, and wampum deployment in both his commercial dealings and his diplomacy. Cadwallader Colden, lieutenant-governor of New York, reported that at a 1746 council 'Johnson was inde-

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2.2 Sir William Johnson's seal combined indigenous and European elements.

fatigable among the Mohawks; he dressed himself after the Indian Manner, made frequent Dances, according to their Custom when they incite to War, and used all the means he could think of, at a considerable Expence ... in order to engage them heartily in War against Canada.'[19] The skills exercised by men such as Frontenac and Johnson in their dealings with First Nations illustrated that success in forest diplomacy required adaptation to Aboriginal rituals and behaviour.

The adaptability of men like William Johnson was simply one more example of the reality that European powers in North America, whatever their opinion of their lofty stature in Europe, had to fit themselves into First Nations' pre-existing alliances to succeed. France had always known the importance of establishing good relations with First Nations. King Henry's commission to the Sieur de Monts in 1603 instructed him to 'treat and contract to the same effect, peace, alliance and confederacy, good amitie, correspondence and communication with the said people & their Princes or others, having power or command over them.'[20]

Samuel de Champlain established a close alliance with the Huron that involved warfare. In the summer of 1609, after a visiting party of Huron entered into an agreement with Champlain at Quebec, Champlain accompanied his new allies south along the Richelieu River to Lake Champlain, where they encountered a party of Iroquois. The Huron-French party easily routed their opponents, owing to French use of muskets that threw the Iroquois into a panic. The incident cemented the alliance between the Huron and the French, a partnership that soon emerged as a lucrative commercial relationship that lasted until the Five Nations attacked and destroyed the villages of Huronia during 1649–50.[21] After the dispersal of the Huron, French trade relied especially upon the nations of northern Quebec, such as the Montagnais, and the several nations of the *pays d'en haut*, such as Algonkin, Ottawa, and others.

The English, France's principal trade and territorial rivals in the late seventeenth and eighteenth century, inherited the Dutch trade relationship that Arent van Curler had established with the Five Nations in the 1640s. The Iroquois were later to say that, when the Dutch arrived, they entered into an association with them that was symbolized by a rope they used to tie the Dutch vessel to the shore. In the case of the English, who moved into the relationship after 1664, the more enduring and valued nature of their alliance with the Five Nations was expressed in terms of an iron chain used to moor the English boat to the shore in Iroquoia. Over time, as in a 1748 council of Johnson and Iroquois, the English represented the link as 'a strong Silver Chain which would never break slip or Rust.' The silver chain between the English at Albany and the Iroquois at Onondaga would 'bind you and him [the king] forever in Brothership together,' and the mooring chain of silver signified the greater value of the link between Natives and the English.[22] Whereas earlier presents, including wampum, were used 'to remove the rust' that might have accumulated on the chain of friendship, from about the 1670s onward, the oratorical description was that presents and wampum 'burnished the silver' chain that bound Iroquois and English together.

The relations between French representatives and First Nations north of the St Lawrence also deepened and strengthened as the seventeenth century wore on. In fact, the first recorded peace treaty conference occurred on the St Lawrence in 1645, just two years after van Curler solidified relations between the Dutch and the Iroquois. There was a connection between the 1643 events in Fort Orange (future Albany) and at Trois-Rivières in 1645. The Iroquois approached the French for a pact because increased demand for beaver furs resulting from the 1643 agreement made them anxious for access to the rich hunting grounds north of Lake Ontario, in lands controlled by allies of the French.[23] Although the treaty talks at Trois-Rivières in 1645 produced a peace between Five Nations and the French and their allies that was short-lived, they were nonetheless important and revealing of First Nations diplomatic practices and European adaptability. The principal Iroquois spokesman on the occasion, Kiotseaeton (Le Crochet, Hook), arrived accompanied by two other Five Nations diplomats and a French hostage they had captured in war. Repatriation of prisoners was an extremely important part of the peace-making process for eastern woodlands First Nations, for whom the maintenance of their population numbers was a burning concern.

Naturally, Kiotseaeton, who was described as 'almost completely covered with Porcelain beads,' presented wampum to the French and launched into an elaborate speech. Before Governor Montmagny, he set up seventeen wampum necklaces and delivered an oration, accompanied by many gestures and re-enactment of some of his party's travails, to impress on his audience the courage they had displayed and the privations they had endured in travelling to the St Lawrence to meet with them. The first wampum marked his gratitude for a safe arrival, and the second, which he tied to the arm of the French hostage, conveyed 'my Nephew' back to the care of the French. 'The 4th present was to assure us that the thought of their people killed in war no longer affected them; that they cast their weapons under their feet.' 'The fifth was given to clear the river, and to drive away the enemy's canoes which might impede navigation.' He

made use of a thousand gestures, 'as if he had collected the waves and had caused a calm, from Quebec to the Iroquois country.' He came to the most critical part of his proposal with the tenth wampum, which 'was given to bind us all very closely together. He took hold of a Frenchman, placed his arm within his, and with his other arm he clasped that of an Alguonquin [*sic*]. Having thus joined himself to them, "Here," he said, "is the knot that binds us inseparably; nothing can part us." This collar was extraordinarily beautiful. "Even if the lightning were to fall upon us, it could not separate us; for, if it cuts off the arm that holds you to us, we will at once seize each other by the other arm."' The eleventh wampum was also extremely important to the peace-making message: it accompanied an invitation to '"come and eat good meat with us. The road is cleared; there is no longer any danger."'[24] The symbolism of eating together – of all eating from the same bowl – was a powerful statement of peaceful relations between treaty and trade partners.

The degree to which the French had already adapted to First Nations practices by 1645 came out in Governor Montmagny's response to Kiotseaeton. Two days after the Iroquois' oration and performance, the governor 'replied to the presents of the Iroquois by fourteen gifts, all of which had their meanings and which carried their own messages,' to the great acclaim and satisfaction of the Iroquois negotiators. 'Thus was peace concluded with them, on condition that they should commit no act of hostility against the Hurons, or against the other Nations who are our allies, until the chiefs of those Nations who were not present had treated with them.'[25] The peace conference at Trois-Rivières in 1645 illustrated that the demands of the fur trade drew foes together, and that European political leaders, like European fur traders, quickly learned the ways of forest diplomacy.

Both France and England found themselves involved in more complex treaty systems in the last third of the seventeenth century. For New France, the single biggest influence on its diplomacy was the transfer of the colony from a commercial monopolist to royal control, in 1663. When New France became a royal

colony it inherited the full range of French administrative institutions, as well as the aspirations and limitations of French diplomacy. In terms of the machinery of government, the key players for the next century were the intendant, generally speaking the official in charge of domestic and economic matters, and the governor, who acted as the Crown's representative in military and external affairs. French policy for Canada, the St Lawrence Valley colony, was known as the 'compact colony' strategy, meaning that under the direction of the great French minister Jean-Baptiste Colbert, Canada was to move away from its excessive reliance on the fur trade and develop a more diversified economy through subsidized immigration and state-sponsored industries. In reality, the pull of the fur trade proved irresistible, thereby limiting the success of Colbert's scheme. Moreover, the inclinations of the governor – especially Frontenac, who fought fiercely to profit from it personally – to pursue the fur trade because it helped to maintain fruitful alliances with the First Nations to the north and west often created friction between intendant and governor. Certainly, Onontio continued to play a major role on behalf of Louis XIV in diplomacy with First Nations in the late seventeenth century.

So far as Corlaer was concerned, there were similar opportunities, imperatives, tensions, and countervailing forces with which the officer charged with Indian diplomacy on behalf of England had to contend. When the English supplanted the Dutch at Albany in 1664, one of the first things their representative did was enter into a peace treaty with the Iroquois.[26] Moreover, successive governors – some with greater facility than others – learned to participate in the time-consuming process of condoling, requickening, present-giving, wampum distribution, and speechifying that was part and parcel of seventeenth-century diplomacy. Iroquois sachems must have tired of having to 'educate' yet another green Corlaer whenever the king in far-off London changed representatives.

Within the colony of New York, Corlaer's biggest problems were a board of Indian commissioners and the colonial legislature. The former were a group of colonists, located in Albany,

who advised on Indian policy and often represented the Crown in dealings with First Nations in the absence of the governor. The problem with the commissioners was that a lot of them suffered acutely from conflict of interest. Since many commissioners were themselves merchants directly involved in the fur trade, they were often engaged in illicit trade with New France that supplied them with furs in exchange for English goods. The fact that goods could be smuggled into Montreal and furs back to Albany meant that Corlaer could not exploit First Nations' preference for English wares in order to advance New York's cause diplomatically. Albany's merchants often made diplomacy more difficult by charging high prices in trade with Iroquois allies. On occasion they were also accused, with cause, of using alcohol and violence to separate visiting Indians from their furs on terms highly advantageous to the merchant. Since First Nations took 'trade and peace to be one thing,' unfavourable terms of trade were interpreted as hostility. Honeyed words from Corlaer in council were often undone by the rapacity of Albany's merchants. From the governor's perspective, the problem with the legislative assembly was that it usually was loath to vote the money to conduct diplomacy as readily as Corlaer and his First Nations allies would like. Again, in council the governor could profess goodwill as fervently as he liked. But if his words were not accompanied by presents and goods to facilitate battling his allies' Indian foes, Corlaer's credibility would be jeopardized, and England's diplomatic well-being undercut.

The inconstancy of their European allies placed First Nations in both alliance systems in grave difficulty. Among the Five Nations by the mid-seventeenth century, pro-French, pro-English, and neutralist (or pro-balance) factions vied for influence in the councils that met at Onondaga. Indeed, the geographic location of Iroquoia allowed for, even encouraged, such diversity of strategic approaches. Following the Iroquois attacks upon and dispersal of the Mahican, Huron, Petun, Neutral, and others in the first half of the century, the pro-French faction had enjoyed ascendancy. The attraction of a peace with France increased. The king in Versailles had dispatched large numbers of French regular

army troops to New France in 1663, and Onontio conducted a destructive military campaign in Iroquoia in 1666. A peace was fashioned in 1667, but it did not last long, given the demands of the fur trade and various Indian allies. If the short-lived peace did nothing else, it provided French Jesuit missionaries with an opportunity to proselytize in Iroquoia. As a leading authority on the Five Nations has noted, '... in the seventeenth century, nearly every Iroquois request for French missionaries occurred during peace negotiations.' The People of the Longhouse saw the Black Robes as personnel to be exchanged as a surety of maintaining peace. 'One party's missionary was the other's hostage.'[27]

By the 1670s and 1680s, the pro-English faction assumed the ascendancy in Iroquoia. In part the explanation lay in the influence of the Mohawk, always the most likely to emphasize the alliance with the newcomers on the Hudson River, who favoured closer ties with Albany. As well, the fact that English governors after the takeover from the Dutch attempted to impose greater order and decorum in the fur mart at Albany, thereby reducing somewhat the exactions that the Anglo-Dutch burghers made on visiting Indian fur providers, helped to improve the image of Corlaer's people. The English in these years also encouraged and assisted the expansion of Iroquois influence over neighbouring First Nations to the south and southwest. Gradually the Five Nations drew the Susquehannock and other First Nations into peaceful relations, and slowly an extended alliance network involving the English, Five Nations, and other First Nations took shape that has come to be known as the Covenant Chain. The Chain, a metaphor to describe the complex web of relations in which New York and the Five Nations were the key players, was an extraordinary creation that testified to the diplomatic skills of the Iroquois. This was the silver link that bound Corlaer and his allies together in opposition to the French and their Native partners in the *pays d'en haut* and in missionary settlements that gave succour to Christian converts from the Five Nations, the Abenaki of New Brunswick and New England, as well as the refugee Huron who had clustered near Quebec following the destruction of Huronia. The Covenant Chain was symbolized – memorialized, in fact – in

an important wampum belt that showed First Nations at one end and Europeans at the other, linked in an alliance. The human figure at the left end was predominantly dark in colour, while that at the other end was mainly white.[28]

The Covenant Chain alliance and the wampum that represented it were different from the *gus wenta*, or Two Row Wampum, that has assumed epic proportions in some quarters. Thanks to an effective campaign by Six Nations leaders from the early 1870s onward, aided immeasurably by adoption of the *gus wenta* by the Royal Commission on Aboriginal Peoples in 1996, the Two Row Wampum is believed by many to embody an unchanging relationship between the Iroquois and their European partners, beginning with the Dutch and carrying on with the English and later Canadians. The belt, believed to represent twin sovereignties, is composed of two parallel lines of dark purple shells separated by a field of white shells. The two lines are said to symbolize two water craft, a canoe and a ship, that sail together peacefully and harmoniously without interfering with each other. This construct is held to represent the campaign by the Iroquois to maintain their sovereignty, first in alliance with the Dutch and English, and later within Canada. In fact, however, the Five Nations had entered into a close alliance with the English that was symbolized by the Covenant Chain, a wampum depicting linked – not separate – parties. While the Iroquois League always struggled to maintain the most autonomy possible within the alliance with Corlaer, there was never insistence on completely separate existence and operations by the Five Nations in these years. Mixing up the *gus wenta* and the Covenant Chain has led to considerable confusion about the nature of Haudenosaunee–European relations.[29]

A particularly clear example of how the Five Nations combined autonomy with their English alliance, and also of how Corlaer sometimes missed their subtlety, emerged at a council in Albany in the summer of 1684. Native representatives 'requested they might have the Duke of Yorks Arms to put up at each of their Castles as a mark of their Affection & Attachment,' to which Governor Dongan replied that 'I do give you the Great Duke of Yorks

Arms to put upon each of the Castles as a Sign that you are under this Government.' Two days later, spokesmen for the Onondaga and Cayuga announced, 'We have put all our Land & our Persons under the Protection of the Great Duke of York Bro[r] to your Mighty Sachem [king].' However, the sachems also stressed that 'We desire you will let the Great Sachem over the Great Lake [King Charles] know, And also that we are a Free People & unite our Selves to the English, and it is therefore in our Power to dispose of our Land to whom we think proper, and We present you with a Bever.'[30] The Iroquois leaders in the 1684 talks were expressing their notion of close relationship and protection while maintaining their autonomy as 'a Free People' and their territorial rights. Given Governor Dongan's reply concerning the coats of arms, it is doubtful that the English understood the import of the speeches. (About the same time, Iroquois diplomats told French governor La Barre, 'We are born free, We neither depend on *Yonnodio* [Onontio] nor *Corlaer*. We may go where we please, and carry with us whom we please, and buy and sell what we please.')[31]

The expansion of the Covenant Chain alliance system in the late decades of the seventeenth century brought important changes to the Iroquois. Prior to this period, the Iroquois League, as noted, had been an association for principally ceremonial purposes. Indeed, its formal name among anthropologists is the Iroquois League of Peace. It was not dedicated to developing what Europeans would call a common foreign or military policy.[32] In the late seventeenth century, another organization, usually called the Iroquois Confederacy, began to emerge alongside – and in a few instances overlapping – the Iroquois League. The existence of the two bodies has often caused misunderstanding. The early Iroquois association was an informal, *ad hoc* network of military leaders who began to meet in an effort to coordinate their positions in dealing with the French and English. Since a few of these leaders who developed the later Confederacy were also sachems representing their peoples ceremonially in the League, there was some overlap between the two organizations.[33] The Iroquois

never developed a coherent external policy towards Europeans, and they never had a collective agency that could have formulated and executed such a policy for the simple reason that the premium Iroquois culture placed on individual and local autonomy made such developments difficult. In an increasingly hostile northeastern North America, that quality was a source of Iroquois vulnerability.

Another complication for Iroquois diplomacy was the existence of a number of expatriate Five Nations communities within New France. These enclaves, sometimes called 'the Seven Nations of Canada' and *les domiciliés* (the domiciled people), were populated by groups of several First Nations who had relocated to the St Lawrence colony for refuge from hostile forces or because their conversion to Christianity made their home communities uncomfortable for them. Some of the Huron who had been dispersed by the Iroquois in 1649–50 had settled at Lorette, near Quebec City; Abenaki, displaced by warfare emanating from the New England colonies, had formed the settlements of Odanak (St Francis) and Bécancour. A mixed community of convert Christians had started out in a settlement known as La Montagne in what is now downtown Montreal, moved to the north side of Montreal Island late in the seventeenth century, and relocated finally to the eastern side of Lake of Two Mountains in the 1720s, under the guidance of Sulpician missionaries. Over time, this mixed community of Algonkin, Nipissing, and Mohawk Christians would become almost exclusively Mohawk as the Algonkian groups moved away from encroaching settlement. It would become known as Kanesatake, although non-Natives often referred to it by the name of a nearby town, Oka. On the south shore of the St Lawrence opposite Montreal, a Jesuit mission known first as Sault St Louis developed in the latter half of the seventeenth century. This Christian Mohawk mission and reserve was known as Kahnawake (At the Rapids), and would in turn produce a spin-off colony upriver on the St Lawrence known as Akwesasne (Where the Partridge Drums). The French usually referred to the younger community as St Regis.

These *domiciliés* Indians were a complication in the lives of the Five Nations south of the lower Great Lakes. For one thing, centres such as Kahnawake, Kanesatake, and later Akwesasne sometimes attracted converts out of Iroquoia, thereby weakening the Five Nations. During the period of heavy French missionary presence in Iroquoia in the 1670s, this was a particular danger. The existence of kin and people of their clan in French territory also worked against efforts by Corlaer to get his Five Nations allies – whom he sometimes mistakenly thought of as subjects – to participate in military expeditions against France's St Lawrence colony. The inability or unwillingness of New York's assembly to vote funds for Indian Affairs and the strong kin and clan ties between the villages of Iroquoia and Mohawk enclaves in New France help to explain why the much more numerous Anglo-Americans invaded New France so infrequently.

These considerations and complications arising from links to Mohawk in New France and Anglo-American colonists' equivocating about an aggressive policy were only part of the problems facing the Five Nations and the Covenant Chain by the 1690s. The Iroquois were increasingly uncomfortable with their strongly pro-English posture. The burdens of maintaining the extensive alliance system, especially in light of the parsimony and apparent irresolution of Corlaer's people, were exacerbated when New France became increasingly aggressive and expansionist in the last decades of the seventeenth century. New France's Governor Frontenac established the fort that bore his name at the eastern end of Lake Ontario in 1673, and in succeeding decades the French manoeuvred to establish themselves at places such as Oswego, Niagara, and Detroit. All these centres were in territory the Five Nations regarded as theirs, and, more important still, a foreign presence in these strategically important points threatened the Iroquois commercially and militarily. The most critical consideration for the clan matrons and other leaders of Iroquoia was the fact that increasing skirmishes were causing loss of life that weakened the Five Nations. It is estimated that Five Nations military strength was halved to 1,320 in the 1690s, while New France's population increased by 50 per cent.[34] The Treaty of

Ryswick, 1697, which brought temporary peace between France and England, made Corlaer unwilling to take overt action against New France, much to the frustration of his allies among the Five Nations.

Their growing sense of vulnerability moved some of the Five Nations to approach the French in search of a peace agreement.[35] In July 1700 a small party of Seneca and Onondaga visited Montreal to open up discussions about a possible treaty. Although Governor Callière was dissatisfied because the delegation represented only factions of the westernmost and central of the Five Nations, he agreed to continue talks at Onondaga the following month. At this meeting, the neutralist (or balance) faction pushed their Iroquois colleagues hard to open the path to peace. It was a good sign that leaders from the Seneca, Cayuga, Oneida, and even some Mohawk joined their Onondaga brethren at the conference. Efforts by New York to break the conference up were rebuffed, and the Iroquois leaders agreed to meet again in Montreal in September.

This next gathering included representatives of the Seneca, Cayuga, and Onondaga, as well as some leaders from French allied nations in the West and *domiciliés*. After three days of speeches and wampum exchanges, the parties agreed tentatively to a peace, the terms to be confirmed the next summer. Key provisions in the preliminary pact were that France's western allies were to be included in the peace between Onontio and the Five Nations, and that all the First Nations involved were to bring the prisoners they had collected in wars to Montreal in 1701 for repatriation. Essential for the Five Nations to 'sell' the plan to their colleagues was an agreement that the Iroquois would be able to trade at Fort Frontenac, a privilege which would greatly reduce their commercial dependence on Albany.

When peace-makers assembled at Montreal in the summer of 1701, their numbers were swelled beyond the groups who had been involved in the 1700 talks. Thirty-eight or thirty-nine First Nations that occupied territories stretching from Acadia on the east to the edge of the prairie on the west, most of them allies of the French, assembled. At least 1,300 First Nations delegates

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2.3 First Nations' totems on the Great Peace of 1701

more than doubled the town's population of 1,200, between July 21 and August 7. Governor Callière and his staff made elaborate preparations for the conclave, but other factors jeopardized prospects for success. For one thing, Montreal had recently been in the grip of illness, apparently a severe influenza, and all the visiting First Nations were uneasy about conditions. The talks were also threatened by a piece of diplomatic sharp practice that the Iroquois pulled: they brought to Montreal their French prisoners, but no Indian trophies from previous engagements with France's First Nations allies. This ploy angered France's western allies, especially Kondiaronk (Le Rat), a convert Huron from Michilimackinac with close commercial ties to the French who had laboured hard to persuade his western allies to journey to Montreal in search of peace. Though humiliated by the duplicity of the Iroquois concerning prisoners, Kondiaronk continued to advocate concluding a peace. Eventually, hard bargaining led to agreement that France's allies would hand their Iroquois prisoners over to the French governor, who would retain five of them until the Iroquois had delivered all the prisoners to Callière for repatriation to their home nations, and would hand the remainder over to the Iroquois right away. Although the sickness continued to cast a pall over the gathering – especially the death of Kondiaronk, who was respected by both the French and his First Nations allies – an important deal was eventually fashioned.

The terms of the Great Peace were critically important to both First Nations and Europeans. The return of prisoners met a profound desire among all the First Nation signatories to recover their kin. A term that specified that the Five Nations were to remain neutral in any future hostilities between English and French satisfied both Onontio and the Five Nations. The French view was that Callière had 'imposed' neutrality on the Iroquois, thereby robbing England of a potentially valuable ally in times of conflict. For the Five Nations, though, the neutrality provision satisfied the desires of the neutralist, or balance, faction within their villages. That point of view was growing stronger after six decades of destructive warfare and amidst a growing recognition by the Iroquois that Corlaer's people were frequently unreliable

allies. For the Iroquois, the neutrality provision ensured their safety in the event of a showdown in North America between France and England. But what was probably more important – indeed, it was what made the Peace of 1701 the Great Peace – was the fact that France's western allies participated in the agreement to live together without hostilities. While this meant that the Iroquois had to share hunting grounds with France's western allies, it also ensured that the Five Nations could safely trade with the western nations. At Montreal in the summer of 1701, it seemed, the only loser was Corlaer and the English.

The Great Peace negotiated in Montreal was not, however, the only agreement the Iroquois concluded in 1701. At Albany that same year, Iroquois delegates pursued their balanced strategy and entered into what is sometimes labelled the Nanfan Treaty after the chief official, Lieutenant-Governor John Nanfan, who represented New York at the time. The Five Nations delegation in Montreal had been led by prominent francophiles who pursued a neutralist strategy; their chief representatives at Albany were anglophiles who also similarly sought balance in the Five Nations' external relations.[36] The Iroquois carefully avoided telling Nanfan of their commitment at Montreal to remain neutral, and reiterated the usual formulae of friendship towards New York. In addition, the Iroquois surprised the New Yorkers by offering to place under Crown oversight 'all that Land where the Bever hunting is' to the west and north of the Great Lakes 'w^{ch} we won by the Sword 80-years ago & pray that He (the King) may be our Protector & Defendor there; And desire that our Secretary may write an Instrument w^{ch} we will Sign & Seal that it may be carried by him to the King.'[37] Since the written version of this treaty exempts certain lands in what is now southern Ontario, the 'Nanfan Treaty' is often held to guarantee Iroquois hunting rights north of the Lakes today.

There are a number of problems with interpreting this concession as a binding treaty. For one thing, a leading expert on the Five Nations contends that the delegates at Albany did not mean to concede or alienate the lands, but merely made a gesture to ensure English protection of lands important to them.[38] An

essential part of the commitment was also the creation of a 'deed' for the territory, but no such legal document was ever provided. Third, the Five Nations did not possess the right to transfer these lands to others because, despite their claim that 'we won [them] by the Sword 80-years ago,' the territory was not under effective Iroquois control. The Ojibwa had driven them out and forced a peace on them during the last decades of the seventeenth century.[39] What is particularly revealing about the Five Nations' intentions in the Albany agreement and the true significance of the 'concession' in 1701 is that for decades after the Albany pact, Corlaer in council with the Iroquois repeatedly referred to a land transfer, while the Iroquois negotiators ignored the reference. In a council with the Mohawk, Cayuga, and Onondaga in May 1731, for example, Governor Montgomerie 'renews the Cov^{t} with them' and, among other topics, mentioned that 'you have put your Lands under the protection of the King of Great Britain.' But the sachems, while agreeing to 'renew the Cov^{t} Chain with this Gov^{t} & all his Majesties Subjects in N. America' and responding to several other topics in the governor's remarks, studiously avoided any comment on their lands and British protection.[40] As a British diplomat was to say ruefully many years later, '... tis true that when a Nation find themselves pushed, their Alliances broken, and themselves tired of a War, they are verry apt to say many civil things, and make any Submissions which are not agreeable to their intentions, but said merely to please those with whom they transact Affairs as they know we cannot enforce the observance of them.'[41]

Whatever the merits of the Albany agreement, there is little doubt that the 1701 peace pacts were remarkable diplomatic achievements. Although the French rejoiced that they had 'imposed' neutrality on the Five Nations, that status was also beneficial to the Haudenosaunee, both because of their internal problems with differing factions and because of the costs of involvement in wars between the English and French. The inclusion of several dozen First Nations allied to the French in a peace pact between Onontio and the Iroquois was a major advance for both New France and Iroquoia. As events were to unfold during

the first half of the eighteenth century, the Great Peace of 1701 was a vitally important achievement.

Strategic decisions in France and England ensured that the Great Peace provided merely a brief respite in North American hostilities. France, in particular under Louis XIV, embarked on an ambitious policy of expanding its grip on the interior of North America as part of its worldwide rivalry with Albion. Commencing in 1700, France ordered its representatives in the field to use the fur trade to strengthen its alliances with First Nations and thereby solidify the French presence in the West and down the Mississippi. Corlaer and other representatives of England understandably felt uneasy at the prospect of being hemmed in by a French–First Nations fence of trading posts, especially as the western alliances that New France enjoyed with First Nations stood as a barrier to westward expansion, which was increasingly favoured by New York, Pennsylvania, and Virginia as the eighteenth century went on. The balance between the two European powers was altered in 1713 by the Treaty of Utrecht, which concluded the War of the Spanish Succession in Europe. Two of Utrecht's terms had a direct impact on First Nations. First, the Treaty said that France recognized British suzerainty over the Iroquois, and that France conceded 'Acadia with its ancient limits' to the United Kingdom. (When England was united with Scotland in 1707, the United Kingdom, or Great Britain, was formed.) For the Iroquois, the part of Utrecht that purported to subordinate them to Britain was irrelevant: they simply ignored it. The Treaty's provisions concerning the Maritime region, however, would prove a major cause of diplomatic manoeuvring, including First Nations–European dealings, for fifty years. Utrecht is also historically significant because in the year following it, Great Britain began the practice of issuing medals to chiefs of First Nations with whom the Crown had good relations.[42]

Despite challenges from the Basques, Portuguese, and, later, New Englanders, the French had had things pretty much their own way in Acadia prior to the eighteenth century. The French had enjoyed generally good relations with the First Nations of the

region, especially the Mi'kmaq, who dominated peninsular Nova Scotia and parts of northern New Brunswick because of their large numbers. The Maliseet of the St John River valley were comparatively minor players in this early period, while the Passamaquoddy of the more southerly coast and the Abenaki inland were more significant. French missionaries had established a beachhead for their country in the early seventeenth century when Membertou, the major Mi'kmaq leader, went through a ritual of adopting Christianity along with the rest of his large extended family. Also important to the positive relations between the Maritime First Nations and the French was the Europeans' reliance on the fishery and the fur trade, neither of which activity threatened the territorial interests of the Mi'kmaq. Some scholars have discerned in the 1610 conversion of Membertou the creation of a 'Mi'kmaq Concordat' with the Vatican, and sometimes point to a wampum that is said to commemorate the event.[43]

Indeed, relations between the indigenous population of the Maritimes and the Roman Catholic Church have always been close, even to the point that in the twentieth century some Mi'kmaq included Catholicism in their definition of what it meant to be Mi'kmaq. But no matter how close Mi'kmaq-Catholic relations historically were, they did not amount to a concordat, or treaty between the Vatican and a people. Whatever the Mi'kmaq thought of the Vatican and their relations with it, the Holy See did not regard the First Nation as the sort of organized society with which the papal state could or would have a formal relationship. Moreover, the Jesuit priests who early ministered to the Mi'kmaq did not have authorization to enter into a formal agreement such as a concordat. Finally, the wampum that is claimed to archive the agreement in fact was made in the early nineteenth century for First Nations people in Quebec.[44] Although relations between the Mi'kmaq and the Catholic Church were close, the link that joined them was not a concordat.

France would need its close relations with the Mi'kmaq in the years after the Treaty of Utrecht because Great Britain increasingly tried to assert the territorial claim that the treaty had given

it over the Maritimes. Besides shoring up relations with the Mi'kmaq through French missionaries and present-giving, France in the 1720s moved aggressively to strengthen its position in the region by constructing a massive fortress known as Louisbourg on the northeastern portion of Ile Royale, the island the English called Cape Breton. Louisbourg, whose defences were always more imposing than effective, served as the anchor for one corner of France's triangular trade with the Caribbean and Canada, as a base from which French warships could protect French interests, and as a rendezvous point at which to distribute presents to First Nations. Britain responded slowly at first, although it did take Louisbourg with New England's support during the War of the Austrian Succession, 1744–8. Its diplomats handed it back during peace talks, however. In the 1750s, Britain's efforts became more determined as it erected fortifications in the Isthmus of Chignecto, the neck of land between New Brunswick and Nova Scotia. It also founded Halifax in 1749 as a North Atlantic base to offset French power at Louisbourg. British officers also tried repeatedly and unsuccessfully to get Acadians – the French, Roman Catholic population that was often intermarried with Mi'kmaq – to take an oath of allegiance to the British king.

As Britain and France manoeuvred in the Maritimes in search of strategic advantage in the period from Utrecht until the mid-1750s, their actions had a direct impact on the First Nations of the region. So far as France was concerned, in addition to constructing and staffing Louisbourg, their principal efforts were encouraging French missionaries to keep the Mi'kmaq friendly to France and supplying presents with which to keep the chain of friendship burnished. In Britain's case, more dramatic efforts at establishing and maintaining formal relations with the First Nations were required. His Most Britannic Majesty lacked the ties of religion and commerce that His Most Catholic Majesty had enjoyed with First Nations for over a century. Moreover, the British presence in the region was more disruptive of First Nations' land use than was the French. The Acadians farmed on, and fished and traded from, land reclaimed and diked, not taken from the Natives. They left only a tiny 'footprint' on Mi'kmaq

lands. The British presence, by contrast, often impinged on lands and transportation routes that the Mi'kmaq considered theirs. It was little wonder, then, that Great Britain found it difficult to establish formal ties with the Maritime First Nations through treaties.

One measure of the difficulty Britain experienced was the frequency with which its emissaries had to make agreements with the local population. Unlike the French, who made only one written treaty with the Mi'kmaq between 1610 and 1760, the British entered into no fewer than thirty-two such formal agreements during the much shorter period of 1720–86.[45] From that plethora of treaties, two agreements stand out prior to the renewal of major Anglo-French warfare in the mid-1750s. First, the Treaty of Boston (1725) was extended northward and entered by First Nations of present-day Nova Scotia and New Brunswick in 1726. The Canadian version, often known as Mascarene's Treaty, was a prime example of the formal treaty of peace and friendship that Great Britain used frequently – and often futilely – with First Nations in the eighteenth century. The Treaty of Boston and Mascarene's Treaty – essentially the same document applied to different geographical areas – brought to a conclusion a conflict between the British and the Penobscot, Abenaki, Maliseet, and Mi'kmaq. This was a true peace and friendship treaty because, in addition to ending hostilities, it pledged the First Nations 'will hence forward hold and maintain a firm and Constant Amity and Friendship with all the English, and will never confederate or combine with any other nation to their prejudice.' The agreements also pledged British respect for 'all their lands, liberties and properties not by them convey'd or sold to or possessed by any of the English Subjects as aforesaid. As also the privilege of fishing, hunting, and fowling as formerly.'[46] The commitments of the 1725–6 treaties were renewed with some Mi'kmaq and other First Nations of the Maritimes in 1749.

That the Treaty of Boston settled nothing about the long-term control of Acadia was demonstrated by the tense relations between British and French that beset the region for the three

decades after 1725–6. Behind the First Nations lurked the French, whose missionaries quietly supported and encouraged the Native opponents of the English with presents. The resumption of war between the European powers during 1744–8 naturally saw the low-grade conflict flare up anew. And once again hostilities were followed in due course by a new peace treaty. The Treaty of Halifax in 1752 made peace between the British, who now were expanding their influence from their base in Halifax, and some of the bands of Mi'kmaq that had been recently arrayed against them. The pact restored peace and pledged the First Nations signatories to 'use their utmost Endeavours to bring in the other Indians to Renew and Ratify this peace ...' This pact went further than the guarantee of gathering rights and peaceful coexistence to offer assurances about trading rights:

> It is agreed that the said Tribe of Indians shall not be hindered from, but have free liberty of Hunting and Fishing as usual and that if they shall think a Truckhouse needful at the River Chibenaccadie [Shubenacadie, in central Nova Scotia] or any other place of their resort, they shall have the same built and proper Merchandize, lodged therein, to be Exchanged for what the Indians shall have to dispose of and that in the mean time the said Indians shall have free liberty to bring for Sale to Halifax or any other Settlement within this Province, Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best advantage.[47]

Whereas the Treaty of Boston and Mascarene's Treaty (1725–6) had recognized an unimpeded First Nations right to gather, the 1752 agreement enshrined a right to trade, including at government-created and -subsidized truckhouses if they wished. Trade and peace were still closely linked.

In the decade following the Treaty of 1752, events unfolded unhappily for the Mi'kmaq and other First Nations of the Maritime region. The British increased their pressure on allies of the French by renewing the demand that Acadians take the oath of allegiance to the British king. The continuing Acadian refusal to

take the oath led British forces in 1755 to initiate the expulsion of the Acadians, the wholesale deportation of the people who were close to the Mi'kmaq of peninsular Nova Scotia. Three years later, the French fortress at Louisbourg fell again to the British, this time for good, and in the following two years, British victories at Quebec and Montreal sealed the fate of New France. The weakened state in which the Mi'kmaq found themselves after the defeat of their long-time ally and the removal of most of the missionaries who had been instruments of French policy, was also reflected in the treaties that a number of Mi'kmaq bands made with the British in 1760–1.

Where the Treaty of Boston had contained a full statement of continuing gathering rights, and the 1752 agreement had restored peace and articulated a broad right of trade, the post-hostilities treaties seemed to embody the weakened position in which the Mi'kmaq found themselves:

> And I do promise for myself and my tribe that we will not either directly or indirectly, assist any of the enemies of His most Sacred Majesty King George the third his Heirs or Successors, nor hold any manner of Commerce Taffick nor intercourse with them, but on the contrary will as much as may be in our power Discover and make known to His Majesty's Governor any ill designs which may be formed or contrived against His Majesty's Subjects.
>
> And I do further Engage that we will not Traffick, Barter, or Exchange any Commodities in any manner, but with such person or the Managers of such Truckhouses as shall be appointed or established by His Majesty's Governor at Fort Cumberland or elsewhere in Nova Scotia.[48]

Trade and peace were still tied together, but now in a way that suggested reduced Mi'kmaq autonomy.

The severity of the post-war treaty language was mitigated by continuing Mi'kmaq strength in many parts of the Maritime region and by strong oral tradition among the Mi'kmaq that their rights were more expansive than were recorded by the treaty documents British governors produced. In 1999 the Supreme Court

of Canada in the *Marshall* decision found that these treaties represented a continuing Mi'kmaq right to gather to make a modest livelihood, thereby settling in effect the dissonance between oral tradition and European documents in favour of the former.[49]

In other theatres of the struggle that Europeans knew as the Seven Years' War and the Thirteen Colonists referred to, tellingly, as the French and Indian War, traditional alliances were also severely tested. In particular, France's allies of the far western posts, the Ohio and Illinois country, and the settlements of the *domiciliés* in the St Lawrence valley fought valiantly in the early part of the contest. British dominance of the sea lanes, however, forced France to abandon many of its more distant outposts and fall back on its Laurentian and Acadian bastions. When these, too, fell to the British, again owing more to sea power than mastery in land wars, groups such as the Ottawa, Algonquin, western Huron, *domiciliés*, and others found the venerable relationships they had established with His Most Christian Majesty through Onontio undercut. As the 1760s opened, First Nations from the Atlantic to the upper Great Lakes faced an uncertain future, both in terms of trade links and alliances.

3

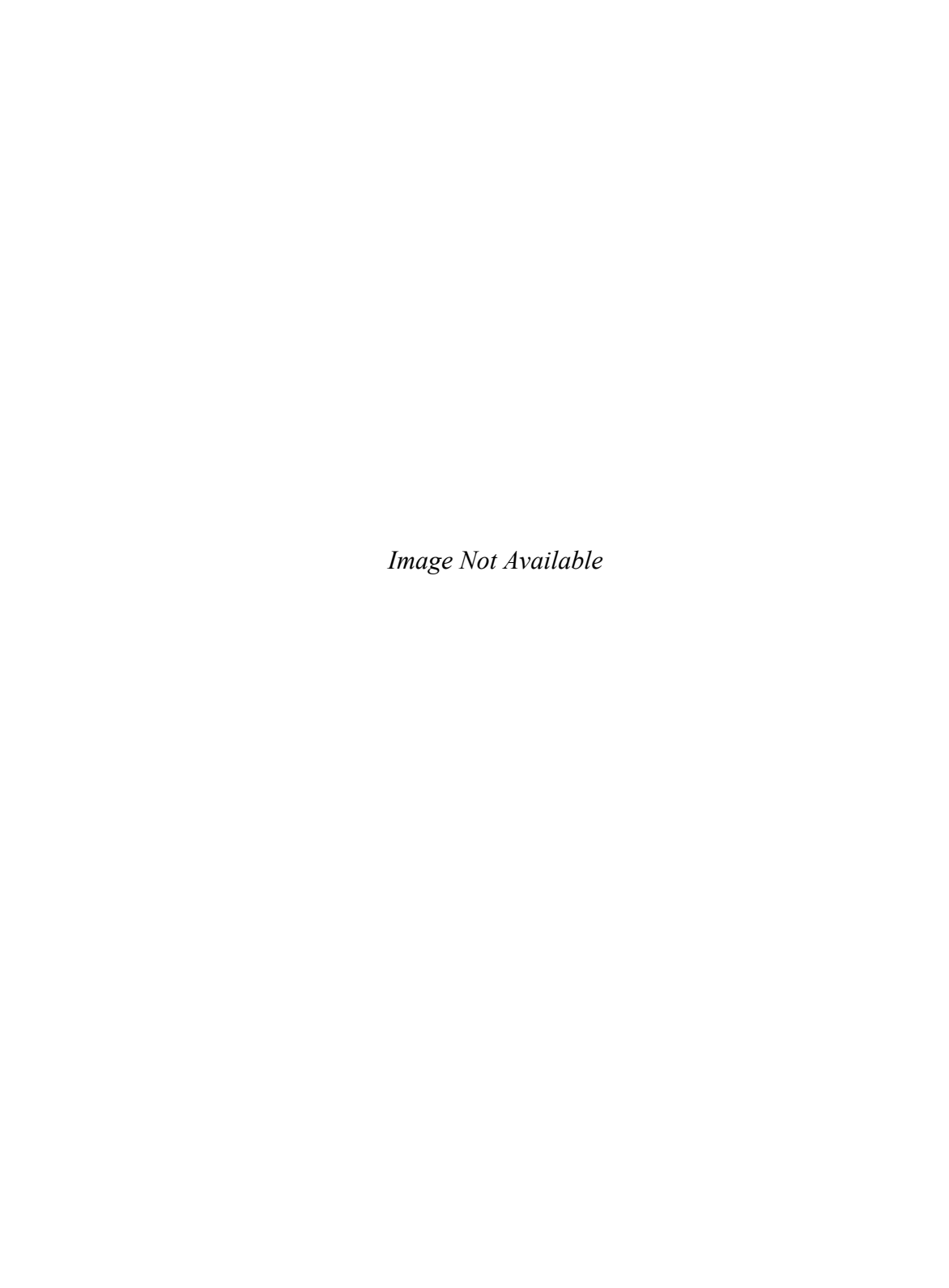
'And whereas it is just and reasonable...':[1] *The Royal Proclamation and the Upper Canadian Treaties*

The Royal Proclamation of 1763 that mopped up some of the details left by the British victory in the Seven Years' War opened a new chapter in treaty-making between Aboriginal peoples and the British Crown. The Proclamation attempted to regulate relations between First Nations and settlers in the northeastern portion of North America, and set out conditions under which Indian lands could legally be acquired. The objective in both instances was to restore peaceful relations between First Nations in the interior of the continent and Great Britain. Its result, however, was to establish a long-lasting regime for negotiating land concessions that shaped the third phase of treaty-making with consequences still felt in Canada in the twenty-first century. The Royal Proclamation became the single most important document in the history of treaty-making in Canada. And no one was happier with the Proclamation's clauses dealing with Indians and their lands than Britain's superintendent of Indians in the Northern Department, Sir William Johnson.

For Johnson the summer of 1764 was an anxious, though hopeful, time, in contrast to the unrelieved stress and trouble of the previous years. Now that the Seven Years' War was over, he could look forward to getting back to reaping the profits of the Indian trade in the interior region south of the lower Great Lakes, on which he had originally made his fortune. There was more to the summer's events, however, than the prospects of renewed trade and profit. Sir William was a wealthy landowner

and successful trader in the Mohawk Valley of New York as well as an Indian Affairs official. Since his appointment as superintendent in 1755, he had devoted his many talents to holding the Indians of the northern region, including several of the nations of the Iroquois Confederacy with whom he had close relations, to friendship and support of Britain. Simultaneously, as circumstances permitted, he had attempted to woo the western nations who were the long-standing trading partners and allies of the French and *Canadiens*. As 1764 approached, a major problem he faced was an Indian war of resistance that raged in the interior. In pursuit of good relations with the Indians, Johnson had long advocated centralization of British Indian policy, generous distribution of presents to potential and actual allies, and energetic measures to protect Indian lands from the encroachments of the rapacious agricultural settlement frontier of the Thirteen Colonies. Finally, many of the policies he favoured had been adopted in the autumn of 1763. (See map 3.)

The Royal Proclamation that was issued in London on 7 October 1763 dealt with many aspects of North American colonial policy, though arguably no part of it was more important than its terms concerning First Nations and their lands. The Proclamation made provisions for territories newly acquired by the Peace of Paris, such as the French colony of Canada on the St Lawrence, which Britain renamed Quebec. In addition to establishing boundaries and rules for new territories, however, the Proclamation took several measures to reassure Indians of Britain's good intentions towards them. (These positive steps were given greater urgency – though they were not inspired by[2] – the widespread Indian war that had broken out in the southern interior, in which a confederacy of Indian groups led by the Shawnee chief Pontiac captured all of Britain's interior posts and killed an estimated 2,000 civilians in reaction to the loss of their ally, France, and insensitive policies by British military administrators.) The 'Indian clauses' of the Proclamation were to have a profound impact on colonial developments, not least because of their formative influence on treaty-making policy.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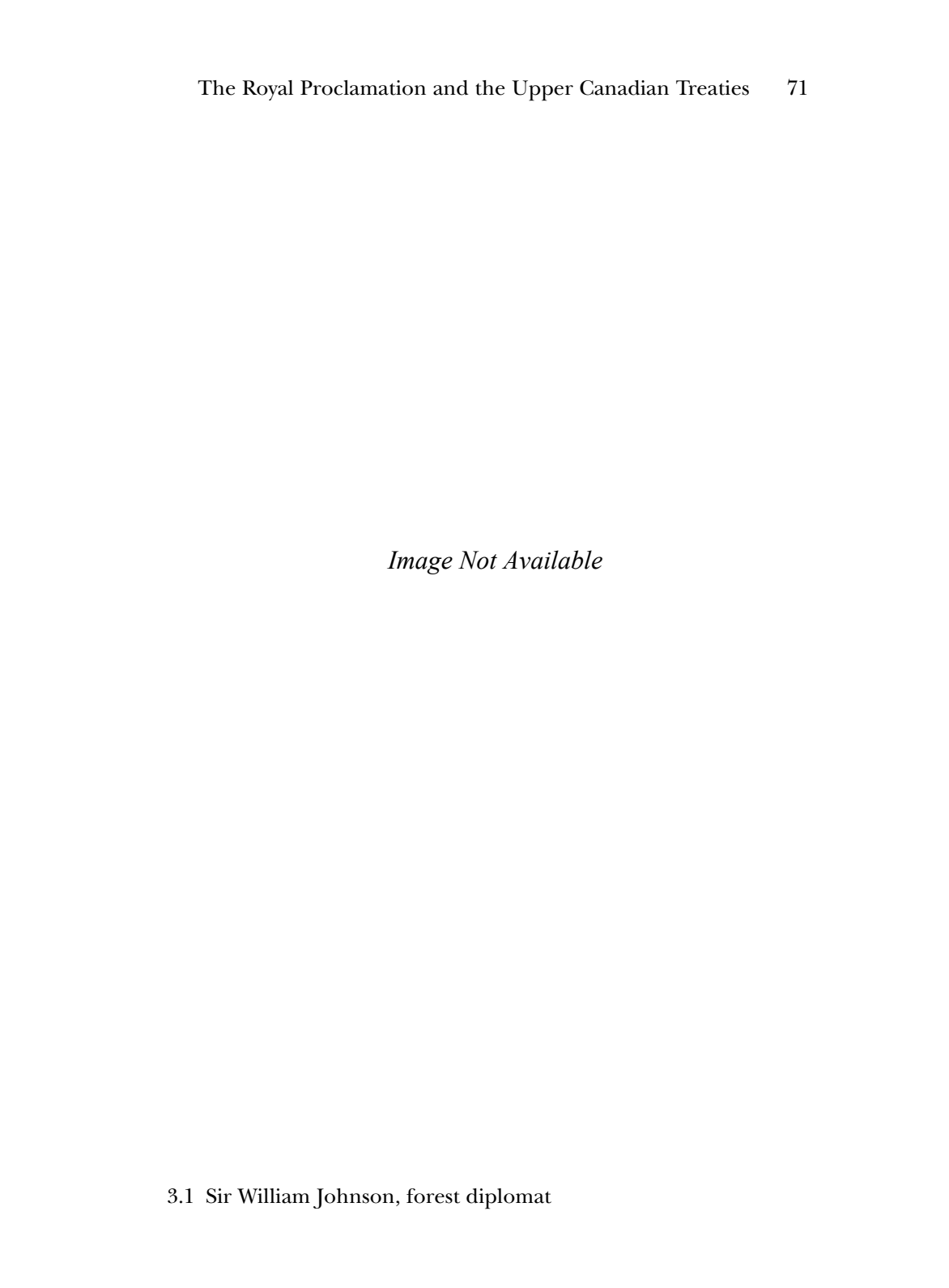
Reassuring First Nations about their lands was a key objective of the 'Indian clauses' of the Proclamation. 'And whereas it is just and reasonable and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds' were the words with which the Proclamation introduced its final five paragraphs dealing with the Indians and their lands. To reassure First Nations and provide for 'the Security of Our Colonies,' the Proclamation forbade settlement by non-Natives on lands west of the Appalachian divide. This interior region had increasingly been a site of conflict before and during the Seven Years' War, as uneasy First Nations saw restive American settlers and traders begin to operate in the West. By striking a line along 'the heads or Sources of any of the Rivers which fall into the Atlantick Ocean from the West and North-West' and forbidding settlement inland of this new Proclamation Line, the new British policy sought to reassure interior First Nations that their lands were secure. In addition, access to this region to trade was conditional: a would-be trader had to obtain a licence from the governor of a colony before crossing the Proclamation Line to trade in Indian country. The Hudson's Bay Company territory known as Rupert's Land was explicitly excluded from the Proclamation's provisions.

Britain was aware that there were good reasons why First Nations should be concerned about their lands. The Proclamation noted that 'great Frauds and Abuses have been committed in the purchasing Lands of the Indians, to the great Prejudice of Our Interests, and the great Dissatisfaction of the said Indians,' and it proposed 'to prevent such Irregularities for the future.' The phrase 'great Frauds and Abuses' was an allusion to a favourite trick of colonial land companies and frontier entrepreneurs who by dubious means obtained a deed from some member or members of an Indian community – perhaps by the use of inducements such as bribery and alcohol – and then

claimed the document was sufficient title to the lands. Needless to say, such trickery had caused anger, and sometimes violence, against non-Natives in Indian country. To counter frauds and abuses over Indian territory, the Proclamation laid down rigid requirements governing acquisition of Indian lands. First, 'no private Person' was allowed '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.' In the event that a First Nation chose to dispose of some of its lands, they 'shall be purchased only for Us, in Our Name, at some public 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.'[3]

Collectively, the 'Indian clauses' of the Royal Proclamation of 1763 were intended to reassure both Britain's Indian allies and the former allies of France who resided in what Europeans now considered British territory that their territorial rights would be respected. At the time this policy initiative – a measure that had been developing for at least a decade – was a pacific gesture aimed at First Nations. Historically it has become even more important as the foundation of Britain's treaty-making policy in Canada. The limitation that only the Crown or its representative could treat with First Nations for land, that negotiations about acquiring Indian lands must take place publicly, and that other members of the First Nation community should be aware of what was being considered would evolve over time into the protocol that was generally followed by the British and later Canadian governments in negotiating with First Nations for land. The Royal Proclamation, as a result, became a vitally important document in the history of treaty-making.

For administrators of Indian policy such as Sir William Johnson, the Royal Proclamation was a godsend. It responded to legitimate grievances among First Nations that had jeopardized relations for many years, and it laid down rules that, if followed consistently, would avoid trouble in future. On a personal level, Johnson acted in concert with the new policy by securing a grant of land from the Mohawk in 1769 to legitimize his occupation of



3.1 Sir William Johnson, forest diplomat

the extensive territory in the Mohawk Valley on which Johnson Hall and his many other buildings stood.[4] The Indian superintendent realized that the new policy, though promising for the future, did not remove all major irritants. 'This Proclamation,' he wrote, 'does not relieve their present greiviances [*sic*] which are many, being calculated only to prevent the like hereafter.' Nonetheless, when he used the Proclamation with the Six Nations in a conference during the winter of 1763–4, it was effective in persuading the Iroquois that British intentions towards them were positive. At that meeting, he argued successfully that the Proclamation demonstrated the king's 'gracious & favorable disposition to do them Justice,' and in future he proposed to 'communicate the same to all the rest of the Indians.'[5] He saw to it that the Proclamation's terms were made known widely to First Nations, and he began to organize a vast conference with First Nation leaders the next summer at Niagara.[6] At such a conference, he advised Britain's acting commander-in-chief, General Thomas Gage, 'we should tye them down ... according to their own forms of which they take the most notice, for Example by Exchanging a very large belt with some remarkable & intelligible figures thereon.' What he had in mind was 'a Treaty of Offensive & Defensive Alliance' that would, among many things, 'assure them of A Free fair & open Trade, at the principal Posts, & a free intercourse, & passage into our Country, That we will make no Settlements or Encroachments contrary to Treaty, or without their permission.'[7]

Johnson carried out his plan at Niagara in the summer of 1764. A vast assemblage of more than 2,000 leaders from twenty-four First Nations scattered across most of eastern North America gathered to treat with the king's Indian superintendent. Several outstanding issues with a number of nations, especially with First Nations who had been close allies of the French, were resolved, and all those represented at the Niagara Conference were admitted to the Covenant Chain of friendship and alliance. At the climax of the conference, Sir William presented the Indians with 'a large Belt with a Figure representing Niagara's large House, and Fort, with two Men holding it fast on each side, and a Road

through it.' To 'the Western Nations,' in particular, he said, 'I desire you will take fast Hold of the same, and never let it slip, to which end I desire that after you have shewn this Belt to all Nations you will fix one end of it with the Chipaweighs at St. Mary's [Sault Ste Marie] whilst the other end remains at my House.'[8] In effect, the British were trying to assume the place of the French in that alliance with western Indian nations. Another interesting example of continuity was the use of wampum. Using these indigenous devices to record the important pact for First Nations was an example of the bicultural practice that by now was common in eighteenth-century treaty-making. The protocols involved were ones of which the Indian superintendent was a master. So far as Johnson was concerned, this agreement concluded at Niagara was intended to be the 'Treaty of Offensive & Defensive Alliance' he hoped would 'tye' First Nations to Britain with bonds of friendship and mutual support.

The Royal Proclamation did not lead to a total abandonment of the practice of concluding treaties of peace and friendship. Indeed, the anxious last months of the Seven Years' War had provided both an opportunity and a need for some of the *domiciliés*, or First Nations in the St Lawrence valley who had been allied with the French, to enter into agreements guaranteeing amicable relations in future. As early as the autumn of 1759, William Johnson had approached the mostly Onondaga population at Oswegatchie, near present-day Ogdensburg, New York, to drop their support of the French. For the British, neutralizing this group was important because they were located on the St Lawrence River, a transportation route vital to imperial plans to complete the conquest of Canada in 1760. Not only did the British diplomatic overture persuade the Iroquois at Onondaga, but representatives of Kanesatake and Kahnawake also entered into an agreement to cease supporting the French and to live in harmony with the British henceforth. On the other hand, a similar diplomatic overture to the Abenaki *domiciliés* at Odanak in French territory resulted in the British emissaries being taken prisoner by Indians, who obviously were not interested in normalizing relations with His Britannic Majesty.[9]

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3.2 Signature panel of treaty with a former French ally, 1764

As the fighting in the St Lawrence valley had drawn to a conclusion with the capitulation of Montreal in 1760, more hastily negotiated pacts of friendship were agreed to by erstwhile Indian allies of the French and the victorious British. The most significant of these treaties of peace and friendship was what became known as the Murray Treaty of 1760. In the early autumn, as General James Murray advanced towards Montreal from Quebec, he was approached by a delegation of *domiciliés* Huron seeking peace. The swiftly negotiated agreement that ensued was recorded in a document guaranteeing safe passage that Murray gave to the Huron of Lorette. Not only did this document assure the Huron safe passage through British-controlled territory, it also said that 'they are received on the same terms with the Canadians, being allowed the free Exercise of their Religion, their Customs and liberty of trading with the English Garrisons.'[10] Here, again, Britain was stepping into the role previously played by the French, continuing respect for indigenous practices and trade ties. Though little remarked at the time, the Murray Treaty

flared into prominence and notoriety in 1990. The Supreme Court of Canada in a decision known as *Sioui* upheld the right of the Huron band at Lorette to enter a provincial park and cut saplings for ceremonial use in spite of a provincial legal prohibition on such actions. Arguing that the 1760 document was a treaty protected by the Canadian constitution, the high court held that it superseded provincial law. The ruling was controversial, being scorned particularly by Quebec nationalists. On the other hand, other scholars have argued vigorously that it was a genuine treaty. They point out that the Murray Treaty conformed to a long-standing British policy of concluding peace treaties with First Nations, and it referred explicitly to the Huron as 'allies' ('sujets et alliés'), in contrast to references to the *Canadiens* only as subjects ('sujets'). The formulation 'sujets et alliés,' they point out, was standard language in other contemporary treaties with First Nations.[11]

Peace pacts such as the Murray Treaty aside, the protocol for acquiring First Nations land that the Royal Proclamation outlined came at a propitious moment. British authorities in the eastern part of North America would soon find it necessary to make a series of Indian treaties whose purpose was the acquisition of First Nations' lands. Indeed, Sir William Johnson had found himself initiating such a process even before the grand gathering at Niagara in July and August 1764. During the early stages of Pontiac's war of resistance, the British had learned painfully how tenuous their communication links to the inflamed interior were. In the summer of 1763, the Seneca had attacked a military expedition bound inland to supply Britain's posts. The loss of goods and more than seventy men a short distance downstream from the falls underlined the critical and vulnerable nature of the vital portage at Niagara. Dealing with the Seneca, especially during Pontiac's War, was ticklish. As 'the keepers of the western door,' the Seneca were forced to try to maintain good relations with the pro-French Indian nations beyond their lands. Taking advantage of the fact that the Seneca were short of food in the spring of 1764, Johnson met them at Niagara and negotiated a treaty that contained many concessions, including their

agreement to 'cede to His Maj[es]ty and his successors for ever' a strip of land four miles (approx. 6.4 km) on either side of the Niagara River. The procedure of negotiating in open council for land followed the letter of the six-month-old Royal Proclamation of 1763; the coercion involved in the process and the punitive nature of the terms did not, however, conform to the spirit of the policy.[12]

The treaty process pioneered at Niagara to obtain Seneca lands for the Crown was merely a preliminary to several phases of territorial treaty-making in what became Upper Canada between the Proclamation and the middle of the nineteenth century. Two forces drove this long process of dispossessing the indigenous occupiers of their lands by treaty: American pressure and immigration to British North America. The American colonists regarded the western lands beyond the Proclamation Line as their undeniable birthright, and they would not be thwarted for long in their desire to move westward in search of lands for agricultural expansion and trade. An augury of the future – Proclamation or not – had come in 1768, when Sir William Johnson persuaded the Indians to accept the Treaty of Fort Stanwix. This agreement effectively moved the boundary of territory open to settlement further west in New York and Pennsylvania, appeasing somewhat the land hunger of the colonists. For their part, the Six Nations accepted the new line, believing – vainly it proved – that it was permanent.[13] But the successful revolt of the Thirteen Colonies against British rule in the War of the American Revolution, 1775–83, freed them from the restraint of British policy. In the decade after the Revolution, the United States had to contend with sporadic resistance, often encouraged by the British, from western Indian nations. An American military victory over western Indians at the Battle of Fallen Timbers in 1794 effectively put an end to First Nations resistance as well.

Indian nations tried repeatedly to hold their lands – by Pontiac's War in the 1760s, by allying themselves with the British during the Revolutionary War, and ultimately by siding with the British and Upper Canadians in the War of 1812. In all these

cases, they were fighting against the movement of the agricultural frontier westward. Pontiac's call to arms in the 1760s had captured the antipathy of the interior Indians to expansive American agriculture: 'And as for these English, – these dogs dressed in red, – who have come to rob you of your hunting grounds, and drive away the game, – you must lift the hatchet against them. Wipe them from the face of the earth, and thus you will win my favour back again, and once more be happy and prosperous.'[14] Though both sides, American and British, frequently accused the other of 'using' Indians in war against each other, the truth of the matter was that First Nations chose the side with which they would fight, or in some cases chose not to fight at all, based on their calculations of what was in their own interest. The tragedy of the situation was that, although most Indians fought against the expansionist Americans on many occasions between 1763 and 1814, they lost every time. The triumph of the westward-moving agrarian frontier displaced First Nations by force south of the lower Great Lakes, and in many cases they sought new homes north of the Lakes, in territory the British considered theirs, in British North America.

For their own reasons, the British encouraged and sometimes supported the First Nations' resistance in the interior. It suited British interests to retard American expansion, and planners in London even dreamed fondly at times of helping to create an Indian territory south of the lower Great Lakes that would act as a buffer between the United States and British territory to the north. Even following the Battle of Fallen Timbers, Britain quietly encouraged continuing resistance, although now the American victory over the Indians and the negotiation of the Jay Treaty in 1794 that normalized relations between themselves and the Americans required them to be more circumspect in their support of the Indian opponents of the expansionist republic. Great Britain and its Indian Department in North America pursued this slippery policy down to the eve of the War of 1812, quietly encouraging First Nations to resist but not taking overt action that would violate their treaty with the Americans. Unfortunately for the interior Indians, U.S. power and ambition were

simply too great. Repeatedly they had to give ground before the victorious American farmers.

From a British perspective, First Nations refugees moving away from the advancing American farm frontier were merely the first of several groups of migrants who would populate Upper Canada. They, along with later non-Native immigrants from Great Britain, created a dramatic need for access to lands nominally under the control of the Mississauga, an Anicinabe people. Britain was motivated to negotiate territorial treaties, in part, because of the necessity created by the Royal Proclamation of 1763, in part, because of a guilty conscience, and, in part, because it recognized that negotiation was the prudent approach to take in dealing with First Nations north of the lower Great Lakes.

After the American Revolution, the Battle of Fallen Timbers, when British officers shut the gates of Fort Miami in the face of Indian warriors fleeing General 'Mad Anthony' Wayne, and the War of 1812, Britain found that the anger of its Indian allies threatened them directly. Following the Treaty of Versailles of 1783, by which Britain blithely surrendered Indian lands to the Americans as part of the peace, they were upbraided by angry Indian leaders. One chief told a British official, 'They were allies of the King, not subjects; and would not submit to such treatment ... If England had done so it was an act of cruelty and injustice and capable only of *Christians*.'[15] After the disgraceful affair at Fort Miami in 1794, Joseph Brant, a major Mohawk leader, bitterly observed 'this is the second time the poor Indians have been left in the lurch.'[16]

By the 1780s, with the horror of Pontiac's War a fresh memory, Britain knew only too well what angry and disappointed First Nations who were disillusioned with their treatment by Europeans might do. A shamefaced British Indian Department consequently negotiated for new lands on which to settle their angry allies, and turned to the Mississauga for access to their lands, first in the immediate aftermath of the end of the Revolutionary War. In light of the twenty-first-century argument by Mohawk in Ontario that a clause in the Albany agreement (or Nanfan

Treaty) of 1701 gave them a territorial interest north of the lower Great Lakes, one aspect of Mississauga-Crown negotiations in the 1780s and 1790s is striking. If the Albany agreement had protected Iroquois territorial rights north of the lower Lakes, it was to be expected that officials would involve Iroquois leaders in negotiations with the Anicinabe. But Britain never considered involving the Six Nations in these talks. Joseph Brant, it is true, contended that discussions with the Mississauga were unnecessary because the Mohawk were the true owners of the lands on the upper St Lawrence.[17] Neither British officials nor the Mississauga said or did anything that indicated they thought any group but the Anicinabe had a claim to the lands to which Britain hoped to move displaced Loyalists and First Nations allies. On at least one occasion in 1783, 'three Onandaga Chiefs lately from Montreal were present [at negotiations between the Mississauga and the Crown] and approved much of what the Missasaugas had done.'[18]

In 1783–4, as the Revolutionary War was ending and the flow of Loyalists across the border increasing, Britain initiated a series of territorial treaties north of the lower Great Lakes and St Lawrence River. The prime consideration was obtaining lawful access to lands on which to settle recent allies of the war against the American rebels. The primary zones for expected Loyalist settlement were the regions from the eastern part of Lake Ontario to the Ottawa River, the Niagara Peninsula, and adjacent lands north of the eastern part of Lake Erie. (See map 4.) Of particular concern to British officials such as General Frederick Haldimand was making provision for Iroquois who had fought with them. Initially, it was expected that some of the allied Haudenosaunee would be settled along the St Lawrence across from established mission sites such as Oswegatchie and Akwesasne. The Indians in the easternmost part of the territory, however, surprised British officials by indicating that they would not object to sharing the district with non-Native comrades. As a result, the most easterly townships of what would become Upper Canada were dominated numerically by non-Natives. Another

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part of the initial plan had been to settle the Mohawk led by Captain Joseph Brant and Captain John Deserontyon together in a large tract in the Bay of Quinte area on eastern Lake Ontario. However, plans soon changed, with Deserontyon and his followers going to Tyendinaga, near present-day Belleville, and Brant's community being granted a large concession along the Grand River, which flowed into Lake Erie. Non-Native refugees were settled principally along the St Lawrence at or near sites that developed as Cornwall, Brockville, and Kingston (formerly Cataraqui or Fort Frontenac).

If the motivation of the United Kingdom in initiating the territorial treaties in 1783–4 is straightforward, the reasons why the Mississauga acceded to British overtures and entered into a series of treaties are comparatively obscure. No doubt one consideration was that the numbers of proposed settlers did not seem a threat: the future Upper Canada was so huge that the roughly 6,000 incoming Loyalists could easily be accommodated. From the Aboriginal perspective, Loyalist settlers were not menacing in another sense. Those who had opposed the formation of the new American republic would undoubtedly bring their hostility to the victorious Americans with them. If First Nations continued to fear the land hunger and expansionism of the new American republic, augmenting the population in British territory north of the lakes with sturdy pro-British settlers would be attractive. The mostly Onondaga population at Oswegatchie, near present-day Johnstown in eastern Ontario, for example, agreed in 1784 to make '"the Front of the Water [the St Lawrence]"' available in order to '"give lands to the troops."'[19] And the Crown negotiator of an important 1783 agreement along the St Lawrence River reported that the 'Missassagues appear much satisfyed [*sic*] with the white people incoming to live among them.'[20] Finally, entering into treaty represented a way for the Mississauga to get access to a large amount of British goods.

Whatever the precise motives of the parties to these early territorial treaties, the contents of the agreements were clear and simple. The area covered by the 1783–4 treaties with the Mississauga stretched from the last French seigneury just west of where the Ottawa River joined the St Lawrence to what is now Prince Edward County, near the Bay of Quinte on Lake Ontario. Another large block of land included the Niagara Peninsula stretching far to the northwest and on the west to a north-south boundary that met the shore of Lake Erie west of Long Point.

A number of distinctive features characterized these treaties in the future Upper Canada. British negotiators continued the use of Aboriginal protocol that had been such a prominent feature of both commercial agreements and treaties of peace and friendship earlier. Captain Crawford, for example, reported