Ojibwa and Ottawa Fisheries around Manitoulin Island: Historical and Geographical Perspectives on Aboriginal and Treaty Fishing Rights

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Introduction

The waters of Lake Huron and Georgian Bay around Manitoulin Island (see Figure 1) have been important to Native people since they first occupied the area following the retreat of the glaciers about 11,000 years ago. Upon these waters, traders carried goods to neighbouring peoples, warriors travelled to battle, leaders journeyed on missions of peace, and political alliance and vision-seekers coasted in search of spiritual places. Most significantly, these waters abounded with fish that Native people caught for subsistence and commerce. These fisheries, based predominantly upon the seasonal spawning runs of a number of fish species, were the foci of Native life for much of the yearly cycle.

The written narratives of Europeans who explored the Upper Great Lakes described many productive Native fisheries and trade networks involving fish and fish products. Fur trade posts were established throughout the region during the 18th century, and the commerce in fish intensified as more food was needed to provision the growing fur trade population. During the 19th century, the growth of non-Native settlement in the Great Lakes region stimulated greater demand, and commercial fisheries developed on a much larger scale. In response to these developments, non-Native commercial fishermen began to enter the fishery and encroach on traditional Native fishing grounds, bringing Natives and newcomers into conflict over the fishery resource.

During the 19th century, several treaties were negotiated and signed by Native leaders and representatives of the British government in Upper Canada. In those treaties, Native people believed that, among other things, their fishing rights would be "free as by the past." However, these expectations were not realized. Instead of protecting Native fishing rights, the government legitimized the takeover of Native fisheries by enacting legislation that effectively ignored the treaty promises and allocated the fishery resource to non-Native commercial interests.

This paper outlines the history of Native fisheries in the waters of Lake Huron and Georgian Bay around Manitoulin Island. It examines the importance of fishing to Native people and assesses the economic, political and
Figure 1: Manitoulin Island and Surrounding Region
other factors that led to the demise of most Native fisheries in the region by the end of the 19th century. Although largely a study of Native resource use in the framework of regional historical geography, the paper seeks to contribute to a growing literature on Native North American fisheries and Aboriginal and treaty rights to natural resources.²

Native Peoples Around Georgian Bay and Lake Huron

The geographical focus of this study is Manitoulin Island and the adjacent waters, islands and coastal lands of Georgian Bay and Lake Huron. At the time of initial European contact, a number of Algonquian-speaking nations occupied the region. In 1640, the Jesuit missionary, Paul Le Jeune, was the first European to describe the locations of the different nations who lived in the vicinity of Manitoulin Island:

Leaving them [the Huron], to sail farther up the lake [coasting along the eastern coast of Georgian Bay], we find on the North the Ouasouarini; farther up are the Outchougai, and still farther up, at the mouth of the river [French River] which comes from Lake Nipisin, are the Atchiligouan. Beyond, upon the same shores of this fresh-water sea [coasting along the northern coast of Lake Huron], are the Amikouai, or nation of the Beaver. To the South of these is an Island in this fresh-water sea about thirty leagues long [Manitoulin Island], inhabited by the Outaouan; these are people who have come from the nation of the raised hair. After the Amikouai, upon the same shores of the great lake, are the Oumisagi, whom we pass while proceeding to Baouichtigouian [Sault Ste. Marie]. [Thwaites, 1896-1901, vol. 18, pp. 229-231]

Figure 2 shows the geographical locations of the Nations described by Le Jeune. Although they were identified as distinct nations, only two, the Ottawa (Outaouan) and Ojibwa Nations are commonly distinguished today. The Ojibwa (also known as Chippewa) are a coalescence of many nations, including the Ouasouarini, Outchougai, Atchiligouan, Amikouai and Oumisagi.

The Ottawa were already involved in the European fur trade when Samuel de Champlain first encountered them in the summer of 1615. Champlain remarked that they were "great rovers" and "they go in bands into various regions and districts, where they trade with other tribes, distant more than 400 or 500 leagues [about 1,200 to 1,500 miles]." (Champlain, 1922-36, vol. 3, p. 97). They also cultivated corn, gathered a variety of wild plants, and were reputed to be "great hunters and fishermen" (Champlain, 1922-36, vol. 3, p. 96). The Ottawa were divided into four distinct groups, and at least one group lived on Manitoulin Island (Waisberg, 1977, p. 1).
Figure 2: Location of Native Nations, c. 1640
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Jesuit missionaries who visited the Ottawa in the 17th century reported that fishing was entwined with Ottawa legends and spiritual views. For example, in 1666, Claude Allouez noted:

They [the Ottawa] believe, moreover, that the souls of the Departed govern the fishes in the Lake; and thus, from the earliest times, they have held the immortality, and even the metempsychosis, of the souls of dead fishes, believing that they pass into other fishes' bodies. Therefore they never throw their bones into the fire, for fear that they may offend these souls, so that they will cease to come into their nets. They hold in very special veneration a certain fabulous animal which they call Missibizi, acknowledging it to be a great genius, and offering it sacrifices to obtain a good sturgeon fishery. [Thwaites, 1896-1901, vol. 50, p. 289]

Several years later, Allouez wrote further about fishing technology and Ottawa creation mythology:

They say that this is the native country of one of their Gods, named Michabous - that is to say, 'the great Hare,' Oisaketchak, who is the one that created the Earth; and that it was in these Islands that he invented nets for catching fish, after he had attentively considered the spider while she was working at her web in order to catch flies. [Thwaites, 1896-1901, vol. 54, p. 201]

The Ojibwa way of life in the 17th century was similar to the neighbouring Ottawa. The early missionary records indicate that fishing was an especially important activity among the Ojibwa. In 1710, the Jesuit missionary Antoine Silvy described the "Amikouas" and "Mississaugas" who lived along the north shore and islands of Lake Huron. Of the Amikouas, Silvy noted: "In summer they live along the shores of Lake Huron largely on fish ... The fish caught are trout, sturgeon and whitefish" (Silvy, 1980, p. 152). Silvy continued: "The Mississaugas live on the river of their name [Mississagi River] which flows into the lake from the north coast. It is plentiful in fish especially the sturgeon" (Silvy, 1980, p. 152). The Ojibwa fisheries were important foci of the seasonal cycle, and large gatherings of Ojibwa and their neighbours for social, political and other purposes were held at these times.

The Iroquois Wars:
Ojibwa and Ottawa Dispersal and Resettlement

The Ottawa and Ojibwa occupancy of their traditional homelands was disrupted during the 1650s. Their Huron allies and neighbours to the south were dispersed by Iroquois attacks between 1649 and 1651. Some of the Huron sought refuge with the Ottawa on Manitoulin Island, but an Iroquois
raid on the island in 1652 caused both the Ottawa and Huron to flee farther west. Many settled in villages along the southern coast of Lake Superior and the Upper Michigan Peninsula. The Ojibwa who occupied the north shore of Lake Huron also joined this westward exodus (Heidenreich, 1987, p. 35).

While some Ottawa and Ojibwa chose to remain in the west after the Iroquois threat had subsided, others began to return to their former homelands in the late 1660s. In 1670, the Jesuit missionary Claude Dablon visited a recently re-established Ottawa village on Manitoulin Island. Dablon noted they were "a part of the Outaouacs, who last summer separated from the rest, betook themselves to the Island called Ekaentouton [Manitoulin Island], lying in the middle of the Lake of the Hurons, as to their former country" (Thwaites, 1896-1901, vol. 55, p. 133). Dablon was impressed by the island's resources, and commented that it was "surrounded by many bays abounding in fish" (Thwaites, 1896-1901, vol. 55, pp. 141-43). In 1671, the Jesuit missionary Henry Nouvel visited the "Amicoues" who had returned to their traditional territory on the north shore of Lake Huron (Thwaites, 1896-1901, vol. 56, p. 93). In 1672, the Jesuit missionary Pierre Baillotquet visited the "Mississakis" in the same area the "Oumisagi" occupied in 1640 (Thwaites, 1896-1901, vol. 57, p. 105).

The Ottawa resettlement on Manitoulin Island was not immediately successful, and by 1683 the group that Dablon encountered on the island in 1670 had returned to the village at Arbre Croche on the northwestern shore of Lake Michigan (Feest and Feest, 1978, p. 773). The Ojibwa remained, and by the 1730s a small group from the Mississagi River had spread to Manitoulin Island (Chauvignerie, 1855, p. 1054). The Ojibwa population in the region also appears to have increased during the 18th century. When Alexander Henry the Elder visited La Cloche Island in 1760, he found it "inhabited by a large village of Indians" (Henry, 1901, p. 34). At the mouth of the Mississagi River, Henry further remarked, "There is here a plentiful sturgeon fishery, by which those that resort to it are fed during the summer months" (Henry, 1901, p. 35).

Although some Ottawa may have re-visited Manitoulin Island during the 18th century, it was not until the 1830s that an Ottawa village was re-established there. In 1836, Thomas G. Anderson, a superintendent of the Indian Department in Upper Canada, and Adam Elliot, an Anglican missionary, visited Manitoulin Island to assess its agricultural capability. At the head of Wikwemikong Bay they came upon a small Ottawa village that apparently had been occupied for several years (Waddilove, 1838, p. 80). It was located near an ancient village site where clay pottery shards were still visible in the recently planted fields of corn, potatoes and spring wheat. The Wikwemikong village comprised eight "lodges" and four "small log houses built covered with cedar bark" (Waddilove, 1838, p. 80). Anderson reported that other Ottawa settlers were expected to arrive soon from Arbre Croche.

Elsewhere on the island, Anderson and Elliot found small, scattered settlements of Ojibwa (see Figure 3). Anderson noted one village at Maple
Based on "Sketch Map Showing Names of Certain Chiefs and the Territory Controlled by each in the Eastern Half of Manitoulin Island." (Endorsed by William Gibbard) (AOB-54)
Point, or Manonikegong, where old corn fields had been recently abandoned for new locations farther inland (Anderson, 1835, n.p.). This description compares well with comments recorded earlier by John McBean, who was in charge of the Hudson’s Bay Company (HBC) post at La Cloche in 1828. McBean noted that some of the Native traders had come from "Point aux Erables" where they had corn gardens (HBCA B.109/a/2, fo. 9d). Anderson and Elliot also visited the Ojibwa summer village at "Waibitchewung" or Little Current, where they saw crops of corn, potatoes, pumpkins and spring wheat (Anderson, 1835, n.p.).

In addition to agriculture, Anderson and Elliot were impressed with the fishery resource of the region. At the "Second Manitoulin," or Cockburn Island, Anderson noted that: "the Indians speak highly of it [Cockburn Island] also of the fishing. It is capable of containing a large number families and industrious fishermen would do well on it" (Anderson, 1835, n.p.).

Other written documents from the 1820s and 1830s illustrate the diversified way of life of the Ottawa and Ojibwa. In 1828, John McBean reported that he traded over 3,000 pounds of maple sugar at Little Current and "Shesheguaning" (HBCA B.109/a/1, fo. 37d). In winter, hunting and trapping were major subsistence and trade activities, and the gathering of wild berries and other edible plants took place in the summer months. Fishing was done throughout the year, but it was most productive during seasonal spawning runs. In general, there were two seasonal fisheries. In the fall, whitefish, cisco and lake trout were caught, and in the spring, pickerel, pike, sucker and sturgeon were the main species taken.

Ojibwa and Ottawa Fish Trade

In the early European contact period, Native fishing technology consisted of a wide variety of equipment, including seine and gill nets, spears and weirs (Rostlund, 1952, p. 84). At many locations, fishermen harvested great quantities of fish using Aboriginal technology. Although much of the catch appears to have been consumed directly or cured for future use, some Natives traded fish for other products with neighbouring groups. For example, the Nipissing exchanged dried fish with the Huron for supplies of corn and other items (Heidenreich, 1971, p. 230). This commerce, noted by many of the early European visitors, was based on long-standing and geographically extensive Native trading networks.

The fish trade intensified as European fur traders established posts throughout the Great Lakes region. By 1830, about two dozen trading posts were operated by the HBC and independent traders in the vicinity of Manitoulin Island. The fur traders purchased substantial quantities of fish from the local Ojibwa and Ottawa. La Cloche was the headquarters for the HBC’s Lake Huron District, which included a string of outposts at "Green Lake, White Fish Lake, Lake Nepisingue, French River, Shawinagaw, Isle au Sable, Sagingue and Mississagi River" (HBCA B.109/a/2, fo. 2). Competing
"free traders" operated about twice as many posts in the same region and were also active in the fish trade (HBCA B.109/e/5, fo. 1). The fish were frozen or salted and used as provisions throughout much of the year. In his 1838 Lake Huron District Report, John McBean remarked:

The fisheries throughout the District have been generally good. At Lacloche we salted 60 1/2 Bbles [barrels] of excellent trout [lake trout] and whitefish. Mississagui 12 1/2 ... Shawanagah 18 ... French River 9 ... Mr. McKay hung up and salted 3000 tulibies [cisco]. [HBCA B.109/e/7, fo. 1]

Some of these barrels of salted fish may have been destined for resale in Detroit, a market that had been pioneered by the Askin family at Sault Ste. Marie as early as 1807 (McCullough, 1989, p. 15).

In late spring, sturgeon made spawning runs up many of the rivers in the region. Sturgeon concentrated in large numbers during these runs and were easily caught. The Mississagi River was an especially productive sturgeon fishery and a detailed description of it was recorded in 1861:

[T]he fishery at Mississaga river ... is the principal sturgeon fishery around lake Huron. ... The Mississaga fishery commences about one month after the ice breaks up, and continues till autumn at the Great Falls. The fishing is entirely carried on by the inland Indians [Ojibwa living north of Lake Huron] who assemble near the mouth, yearly, in great numbers. They spear a few off platforms projecting over the first rapids; but their principal fishing is with nets. The nets are made of sturgeon twine (purchased at the Hudson's Bay Company posts). They are about 16 feet long, 6 feet deep, with a slight bag, floats of wood about 6 inches long and 3 in diameter, placed two feet apart, and a stone from 5 to 8 lb weight attached to the middle of the bottom of the net, for a sinker. The mesh is about 2 inches on the square, the net is hauled between two canoes with the stream, and in the eddies, underneath the falls. One Indian and a squaw in each canoe; the canoes are very small- about 9 to 10 feet long, and only wide enough for one person, and are made of birch bark- the squaw manages the canoe; the Indians "feels" the net, and as soon as he feels sturgeon, he hauls up; the canoes close, and with a heavy wooden club he strikes the sturgeon a few smart blows on the head, then lifts them into the canoe. The canoes are beautifully managed, and in the space of an hour two canoes will take 8 to 12 sturgeon- 80 to 100 are frequently taken in a day weighing from 40 to 100 pounds. The sounds [swim bladders] are collected and dried, and sold to the Hudson's Bay Company at 50 cents per lb, for isinglass. Mr. Sayer, at Mississaga, collects about 100 lbs annually, from an average of 10 sounds to one
pound. The Indians smoke and dry the fish on poles for winter use; generally, however, consuming all before they leave for winter quarters. [Canada SP, 1862, p. 11]

The fur traders purchased fresh, dried and smoked sturgeon and sturgeon oil. The HBC also purchased isinglass, which was derived from the swim bladders of sturgeon. Table 1 indicates the amount of isinglass purchased by the company from 1831 to 1863. In 1857, 366 pounds of isinglass was traded, which represented a catch of about 3,600 sturgeon.

Table 1

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* statistics not available
Source: HBCA, B.239/h/1-6.

By the 1820s, the export of salted fish from the vicinity of Sault Ste. Marie to Detroit was reported to be a thriving business (McCullough, 1989, pp. 15-16). Fish traders coasted along the shore and bought fish from Native fishermen at their traditional fishing grounds. This pattern was still in operation in the waters around Manitoulin Island in 1857.
Fish is caught in rather large quantities during the spring and autumn, but all goes to the profit of the traders who frequently supply the Indian with nets, and go with their schooners from one fishing ground to another, and take the fish the moment it is hauled out of the water. [Ferard and Hannipeaux, 1857, p. 239]

On these expeditions, the fish traders were heavily supplied with liquor, which was one of the primary items of trade. In 1837, John McBean at La Cloche wrote to the HBC Governor, George Simpson, complaining, "Fish traders from Penetanguishene and Goderich have been dealing liquor to the Indians last fall as I am told" (HBCA B.109/b/6, p. 11). HBC fur traders also used liquor extensively in the fish trade. For example, the La Cloche post journal noted on 27 September 1827, that orders were given to "fill a Barrel of 16 gallons with Indian Grog which, with some other articles, is intended for the Trout Trade at Old La Cloche" (HBCA, B.109/a/1, fo. 12d).

The Manitoulin Treaty of 1836

In the summer of 1836, the Lieutenant Governor of Upper Canada, Francis Bond Head, visited Manitoulin Island. During the five-day canoe journey to Manitoulin Island from Penetanguishene, Head was impressed with the numerous islands along the coast of Georgian Bay and Lake Huron, and in a letter to Lord Glenelg of Britain's Colonial Office, he remarked that "the surrounding Waters abound with fish" (British Parliamentary Papers, 1969, p. 122).

When Head arrived at the village of Manitowaning, he found several thousand Native people already assembled from the island and surrounding region. They had gathered at Manitowaning for the annual ceremony of gift-giving by the British, a practice which had begun shortly after the British army took control of the French garrisons on the Great Lakes in 1763. In the years to follow, the annual presentation of gifts by the British to their Native allies cemented military, economic and political alliances (Williams, 1981, p. 70). The first presentation of gifts to the Native peoples of the Great Lakes had taken place in 1764 at Niagara Falls. At that initial ceremony, twenty-two Native nations were represented among the more than 2000 people gathered for the occasion, and Sir William Johnson was present on behalf of the British Crown. The first distribution of presents was solemnized by a wampum belt (made from shell or porcelain beads), known as the Covenant Chain, which was symbolic of a treaty of enduring peace between Britain and the Native nations (Williams, 1981, p. 76).

Head visited Manitoulin Island in 1836 to re-affirm Britain's peaceful relationship with its Native allies. In addition to witnessing the distribution of presents, Head addressed the assembly of Native people and asked the Ojibwa and Ottawa leaders to sign another treaty. The proposed treaty was
to reserve Manitoulin exclusively for Native people. Increasingly, Native people to the south of Manitoulin Island were being displaced by newly arriving non-Native settlers and the British government was concerned about the impact of these newcomers on the Native people. Head was determined to set aside Manitoulin Island as an insular refuge where Native people could live apart from non-Natives.¹

Manitoulin Island had been selected because of its remoteness from centres of non-Native population, and also because it had abundant resources. In 1829, Lt. Colonel William Mackay, Superintendent of the Indian Department, had failed in the first attempt to establish an "Indian Reserve" on Manitoulin Island. Speaking to a gathering of Native people at the annual distribution of presents on St. Joseph Island, Mackay pointed to the "abundance of fish" in the waters surrounding Manitoulin Island (Canada LA, 1847, n.p.).

Head’s proposal for a treaty was intimately linked to the Covenant Chain that had been forged in 1764. Indeed, the written treaty document made direct reference to the Covenant Chain Treaty at Niagara in 1764. The Ottawa and Ojibwa Chiefs acknowledged the new treaty with Head, and placed their totemic symbols on the treaty document, along with wampum that signified their understanding of the terms of the agreement.² The written treaty promised that the British Crown would protect the Ottawa and Ojibwa on Manitoulin and the surrounding islands. In return, they had only to agree to keep their lands open to future Native settlers. Since the Ottawa and Ojibwa had traditionally kept their doors open to other Native people, the Chiefs accepted the treaty. The wampum used in the 1836 treaty linked it with the Covenant Chain, and symbolized the continuing alliance of peace between the British and the Ojibwa and Ottawa Nations (Williams, 1981, pp. 80-87).

The written treaty was silent with respect to fisheries; however, the importance of the Ojibwa and Ottawa fisheries was recognized by all parties. Indeed, Head prefaced his report on the treaty by calling attention to the "innumerable fishing islands" surrounding Manitoulin (Head, 1891, p. 113). Thomas Anderson, who was present at the 1836 treaty signing as an interpreter, later recounted what he had told the Ojibwa and Ottawa in regard to their fisheries:

I suggested the propriety of prescribing boundaries, reserving this Island and extensive fisheries around it for settlers [Native], within which none should be permitted to come, except by express permission of the Government. [Canada LA, 1847, n.p.]

Unlike the government representatives who recorded the treaty in writing, the Ojibwa and Ottawa kept an oral record of the treaty proceedings. In the absence of a Native form of writing, the Ojibwa and Ottawa kept important
events alive through the medium of oral transmission. Often, the oral record was aided by mnemonic devices such as wampum belts.

**Encroachments by Non-Native Commercial Fishermen**

In 1836, the fisheries around Manitoulin Island were harvested exclusively by Native fishermen, including a growing population of Metis. However, by the late 1840s, an increasing demand for fish prompted some non-Native fish traders to become directly involved in the fishery. These developments caused many Native fishermen to petition the government to protect their rights. At a council held at Manitouwanning on 17 February 1848, the Chiefs of "Chitewainganing, Shegwanaindand and Wequamekong" instructed the resident superintendent of Indian Affairs, George Ironside, to bring their concerns to the attention of the Governor General, James Bruce, the Earl of Elgin. Ironside noted:

[The Ottawa and Ojibwa fishermen] have long noticed, with feelings of distrust, the gradual encroachments of the whites upon their fishing grounds in the vicinity of their Island. That these places are yearly resorted to by persons under the pretence of merely [sic] trading with the Indians while their real object is the catching and curing of fish, and, being always well prepared for carrying on the business, large quantities are annually secured and taken away by these intruders, to the great injury of the settlers here. [NAC RG 10, vol. 169, p. 3029]

On 8 November 1849, Ironside warned two "white" fishermen not to fish around Club Island. The fishermen, named Proulx and La Rond, lived at Wikwemikong and may have been Metis of mixed French and Ottawa ancestry. Ironside delivered an ultimatum that stated "it is contrary to the wishes of the Indians generally that you or any other white person should occupy any of the fishing Islands in Lake Huron" (NAC RG 10, vol. 572, n.p.).

By 1850, many Ottawa and Ojibwa fishermen had become deeply involved in the commercial fishing industry, and they viewed the encroachments of non-Natives as a threat to their economic as well as political domain. The population of the island had increased to roughly 1200, and about half (580) lived at Wikwemikong. The Wikwemikong fishery was especially busy. In 1857, the following description pointed to the importance of fishing to the community:

The bay [Wikwemikong] forms in the morning and evening an animated spectacle, covered as it is by a fleet of small vessels, (called Mackinaw boats,) going and returning from fishing, for each family has its own boat, and the Indians are very expert in their construction. [Ferard and Hannipeaux, 1857, p. 225]
An 1856 census listed five boat-builders, ten carpenters and nine coopers on Manitoulin Island, and the annual fish catch amounted to 2308 barrels (NAC RG 10, vol. 573, p. 151). The economic opportunities for Native fishermen appeared bountiful, and an 1858 report concluded:

The Fisheries surrounding the Islands on all sides in the large Bays, and in Lake Huron are excellent, and if properly managed would furnish not only a supply of food to the Indians themselves, but also prove a source of considerable profit to them. [AO RG 18, vol. A-9, p. 1]

The Lake Huron Treaty of 1850

A boom in the mining and timber industries in the 1840s attracted many non-Native speculators to the north shore of Lake Huron. These developments prompted the government to seek a treaty with the Lake Huron Ojibwa for a surrender of their lands. In 1849, Thomas G. Anderson and Alexander Vidal were sent to investigate the willingness of the Ojibwa to enter into such a treaty. Their report indicated that the Ojibwa would sign a treaty, provided that they would not be required to "remove from their present places of abode - their hunting and fishing not interfered with, and that the compensation given to them be a perpetual annuity" (AO Irving Papers, p. 7).

In 1850, William Robinson was appointed as the government’s negotiator, and he succeeded in obtaining a land surrender, saving a few small reserves around the Ojibwa villages. In addition, the treaty promised that the Ojibwa would be free to continue their traditional activities such as hunting and fishing. Specifically, the 1850 Lake Huron Treaty stated that the Ojibwa would retain the "full and free privilege" to "fish in the waters as they have been in the habit of doing saving and accepting only such portions of the said territory as may from time to time be sold or leased ... and occupied" (Morris, 1880, p. 306). All of the Lake Huron Ojibwa chose reserve areas near their traditional fisheries, and several reserves were actually surveyed as fishing stations (Hansen, 1986, p. 11).

The 1850 Lake Huron Treaty recognized Native fisheries, but the Lake Huron Ojibwa believed that the treaty gave them far wider protection than the government was willing to provide. In 1851, the Ojibwa attempted to use the treaty to force the government to take action against non-Native fishermen who continued to trespass on their fishing grounds. When the government hesitated to take the appropriate action, the Chiefs requested that the Governor General provide them with a written statement showing that they had not consented to give up their fishing rights in the treaty. After conferring with his legal advisors, the Governor General declined to provide such a statement, but he promised that non-Natives would be restricted from using their shorelines for fishing or any other purpose (NAC RG 10, vol. 323, pp. 216, 417).
Despite the Governor General’s assurances, the transgressions of non-Native commercial fishermen continued. In 1853, J.W. Keating, who had assisted Robinson during the 1850 treaty negotiations, petitioned the government to confirm that the Ojibwa had retained the "exclusive right of fishing in the waters immediately fronting the Reserves" (NAC RG 1 E8, vol. 46, n.p.). The Committee of the Executive Council then made the following recommendation:

As regards the exclusive right of fishing in front of the Reserves, prayed for on behalf of the Indians, the Committee advise that the Superintendent General [of Indian Affairs] be informed that, in the event of any attempt being made by other parties to trespass upon the deep water frontage for the purposes of fishing, the Government will then consider the expediency of giving the Indians such a Title thereto, either by lease, License of occupation or otherwise, as will effectually protect them from future interference -the granting [of] the exclusive right of fishing is a subject involving legal questions which the Committee do not think it will be advisable or necessary to raise. [NAC RG 1 E8, vol. 46, n.p.]

Non-Native Fishery Conflicts and Compromises in the 1850s

During the mid-19th century, most commercial fishermen used fixed gear, which required access to fishing stations on land. In addition, the salt-curing process required land-based fishing stations to dress and pack the fish in barrels. During the 1850s, numbers of non-Native fishermen attempted to negotiate leases for fishing stations with the Ottawa and Ojibwa who occupied the land. In 1855, two non-Native fishermen applied to the Indian Department for permission to lease a fishing station at "Mind-e-moo-ya-sebe" (at the mouth of Mindemoya River in Providence Bay). According to Ironside, the Native people were willing to permit the lease because they "do not frequent the place much for fishing purposes" (NAC RG 10, vol. 573, p. 112). Ironside brought the lease application to the Governor General’s attention, who "sanctioned" the lease on condition that the rental terms were "advantageous to the Indians," and the term of the lease was not to exceed five years (NAC RG 10, vol. 516, p. 412). However, news of the proposed lease soon attracted a flood of interest from other fishermen. This caused a ripple of concern among the Manitoulin Chiefs, and Ironside reported:

The Chiefs here inform me that all the fishing grounds about the Manitoulin have been secured to the Indians by treaty [1836] and as there are now between two and three hundred American fishermen engaged in the Trade on the Canadian side of this Lake, I would therefore beg to be instructed as to what steps I am to take in the
event of their extending their operations to the Indian fishing grounds on the Island. [NAC RG 10, vol. 573, p. 118]

By mid-summer of 1855 fears about the loss of their fishing grounds prompted the Manitoulin Chiefs to withdraw their support for the Providence Bay lease. Ironside informed the applicants that "The Indians having intimated [sic] to me in a formal manner their unwillingness to sanction the leasing of any portion of the Island" (NAC RG 10, vol. 573, p. 120).

Non-Native commercial fishermen continued to apply for leases. In 1856, a fisherman who had applied earlier for the Providence Bay fishery requested a lease for "Michel Bay" (Michael's Bay). The applicant agreed to pay an annual rent of 50 dollars for five years, limit his fishing station to three acres of land, and to fish with only three boats in the deep water of the bay. He also agreed not to interfere with the "rights and privileges of the Indians" (NAC RG 10, vol. 573, p. 126). The rules of the lease reflected the desire of the Manitoulin Native communities to maintain control of their fisheries, while also benefitting from the rental income of fishing stations within their jurisdiction. In 1856 the Governor General approved the lease (NAC RG 10, vol. 573, p. 136).

Another application was made in 1856 for a fishing station at the mouth of the Whitefish River on the north shore of Lake Huron. The application was similar to the Michael's Bay lease, but it contained several specific regulations based on local conditions. First, the applicant agreed to cancel a debt owed by the Chief and his three brothers. The applicant also agreed to hire only Whitefish River Ojibwa to carry on the fishery, and to buy fish at a fair price from other members of the community who were not employed in the fishery. Finally, the applicant agreed not to "interfere with the rights and privileges of the owners of the Reserve" (NAC RG 10, vol. 573, p. 128). In keeping with earlier decisions, the Governor General was "pleased to sanction this arrangement" (NAC RG 10, vol. 517, p. 243).

The 1856 lease agreements were based on local negotiations between non-Native fishermen and the Chiefs of the Ottawa and Ojibwa. Although facilitated by agents of the Indian Department and ultimately sanctioned by the Governor General, the leases reflected Native control over fishery management and provided a measure of self-determination in the changing economy of the Great Lakes region in the mid-19th century.

Canadian Fisheries Legislation

Fishery legislation in Upper Canada did not exist for the Georgian Bay and Lake Huron waters until the Fishing Act was passed in 1857. In 1858, the act was revised and renamed The Fishery Act, and it became the blueprint for later fishery rules and regulations. The Fishery Act provided the Commissioner of Crown Lands with the authority to issue leases for fishing stations on all "vacant public lands still belonging to the Crown" (Canada LA,
1859, n.p.). The act did not specify Native fisheries nor did it make reference to any existing treaties.

Although The Fishery Act was silent with respect to Native fishing rights, it soon attracted the attention of R.T. Pennefather, Superintendent General of Indian Affairs, who realized that previous treaties had promised to protect Native fisheries. Pennefather met with P.M. Vankoughnet, Commissioner of Crown Lands, and an agreement was reached that gave Native fishermen the first opportunity to lease fisheries located in front of "inhabited Indian lands" (NAC RG 10, vol. 573, p. 212). Under this scheme, fisheries located in front of Native villages were protected, but other Native fishing grounds were opened to non-Native commercial leases.

In 1859, the Commissioner of Crown Lands appointed William Gibbard as the first fishery overseer for Georgian Bay, Lake Huron and Lake Superior. Gibbard’s first season was a busy one, covering an estimated 9660 miles of travel during which he issued 97 leases. Of these, fourteen went to the Hudson’s Bay Company, 71 to "practical fishermen" and only twelve to "Indian Bands" (Canada LA, 1860, n.p.). Gibbard did not proceed with haste to the Native villages within his jurisdiction. In fact, he did not visit any villages on Manitoulin Island until 19 July 1859, just twelve days before the deadline for tenders on fishery leases. At Wikwemikong, Gibbard found that the local Indian Agent, Ironside, was absent so he left a sealed envelope with instructions that Native fishermen had to apply in writing for fishing leases. Three days later, Ironside returned and explained the situation to the Ottawa and Ojibwa Chiefs. On 22 July 1859, they instructed Ironside to write immediately to the Superintendent General of Indian Affairs to intervene on their behalf. The Ottawa Chiefs of Wikwemikong were especially concerned that non-Native fishermen might try to take leases for Club and Horse (Fitzwilliam) Islands, which were considered to be Ottawa lands. They stated:

[T]he said Islands with others in the neighbourhood, were set apart for the exclusive use and benefit of the Indians at the same time as was the Island on which they now reside [1836]." [NAC RG 10, vol. 573, n.p.]

Several days after the Manitowaning council, Ironside learned some disturbing news. Gibbard had already given leases to non-Natives for many fishing stations including Club and Horse Islands. To complicate matters, the latter were leased to four residents of Wikwemikong, two of whom were "married into the Tribe and having large families" (NAC RG 10, vol. 573, p. 216). Despite these family ties, the Wikwemikong Ottawa demanded that the fishing leases be torn up and that they be removed from Manitoulin Island. When Gibbard was pressed by the Indian Department to explain his actions, he blamed the Native fishermen for their own plight. Gibbard explained that none of the Wikwemikong fishermen would speak to him because their
"Fishing Chief" was away (NAC RG 10, vol. 250, pt. 1, p. 12,153). Gibbard also believed that the Ojibwa and Ottawa should give up fishing and concentrate on farming. In Gibbard's words: "the Indians would be far better off if they attended to their farms instead of dabbling in fisheries" (NAC RG 10, vol. 250, pt. 1, p. 12,153).

Elsewhere in his travels, Gibbard met resistance from other Native fishermen who refused to acknowledge the new fishery regulations. For example, the Nawash (Cape Croker) Ojibwa threatened to drown Gibbard when they learned that he had leased several of their fishing islands. Gibbard retorted:

I have allotted them 3 times as much as they require - and more than they will ever think of using. In my opinion all the Indians would be better men and better off if they never saw a fish. [NAC RG 10, vol. 418, p. 576]

In his annual report, Gibbard stated he was threatened by a "dirty looking Indian," revealing a personal outlook that was becoming increasingly prejudicial to Native fishermen.

Gibbard was far more sympathetic to non-Native fishermen, although he admitted that many were Americans. He referred to them as "gentlemen" and he hoped that the leasing system would lead to more of their kind, and eventually to the establishment of "a superior class of fishermen" (Canada LA, 1860, n.p.). Gibbard also advocated restrictions on spearing and trolling by Native fishermen. He reported much damage was done to the fishery "by the spearing of wandering Indians" (Canada LA, 1860, n.p.).

During the winter of 1859-60, Native fishermen continued to press the Indian Department to do something about the new fishery laws. A petition signed by the "Chippewa Indians of the Saugeen [Bruce] Peninsula, and Lakes Huron and Simcoe" dated 4 May 1860, outlined their claims:

The Lakes Huron and Simcoe Indians petition against the fishery law, and state that when they surrendered their lands to the Government, they did not sign over all the game and fish ... [AO RG 1, vol. A-1-7, n.p.]

As a result of the petition a report of investigation was commissioned by the Secretary of State for the Colonies, and it concluded:

The Indians now assert that this [Fishery] Act trenches on their just rights, as they never surrendered the fisheries when they ceded their land. I think that to establish this position, they should shew, that until the year 1857 they had enjoyed the monopoly of fishing in these waters. In reality this was not the case; the Lakes and rivers were considered open to all. Everyone aided in the destruction of fish,
though in a very few instances, rent was paid to some of the Indian tribes, not for the fishery but for the use of their Land as a station for drying the nets, curing the fish, etc. [NAC RG 10, series 2, vol. 2, pp. 444-45]

The report focused on the arrangement between the Indian Department and the Crown Lands Department in 1859. That arrangement was described as one that offered "protection of the interests of the Indian tribes" (NAC RG 10, series 2, vol. 2, p. 445). In dismissing the Aboriginal fishing rights of Native people, the report minimized the rights implicitly recognized in the earlier fishing leases that had been negotiated between the Ojibwa and Ottawa and non-Native fishermen. Perhaps more important, the report held that Aboriginal fishing rights did not exist by virtue of the perceived failure of Native people to monopolize the fishery prior to 1857. Finally, the report did not take into consideration earlier treaties that had recognized and affirmed Native fishing rights. These interpretations, based loosely on principles of English common law, would continue to frustrate Native claims to their fisheries in the future.

By 1861, Gibbard had increased the number of leases within his division to 155 (Canada LA, 1862, n.p.). Of these, only four were given to Native fishermen within the vicinity of Manitoulin Island. In his annual report, Gibbard noted that the Manitoulin Island fishery was not being used to its full extent. He believed that ten times more fish could be taken from the Manitoulin waters and he recommended transferring the lease to more productive users. Although Gibbard’s recommendations were not adopted, his report enraged Native fishermen. Their feelings were summarized in a letter printed in The Daily Globe on 9 March 1862:

An overseer of fisheries had the malice to propose to the Government in his annual report to forbid the Indians from fishing under the pretext that they ruin the fisheries; the Governor acted wisely, he did not listen to such false reports. If the recommendation had been put in force, it would have caused the Indians to revolt against such regulations. [Globe, 9 March 1862, p. 2]

The Ottawa and Ojibwa also accused Indian Agent Ironside of conspiring with Gibbard to take away their fisheries. On 23 May 1861, the Chiefs met at "Michiguentinong" (West Bay) and drafted a petition to the Indian Department that stated:

With regard to the leasing of fisheries in general we beg to say that he [Ironside] would not permit us to make any remonstrance against the leasing of our fisheries; he acted entirely as he pleased. He reprimanded the Indians sharply for daring to oppose the leasing of their fisheries. [NAC RG 10, vol. 573, p. 291]
The mounting frustration of the Ottawa and Ojibwa fishermen led to acts of protest such as destroying nets and other equipment of non-Natives (Canada LA, 1862, n.p.). Gibbard pointed to these incidents to give force to his conviction that Native people should not dabble in fisheries. In fact, he openly expressed his disdain for Native fishermen in a letter that appeared on the front page of The Daily Globe. Gibbard referred to the Ottawa fishermen of Wikwemikong as "the most miserable-looking, ill-clothed, drunken, lying, stealing vagabonds of the whole band" (Globe, 21 March 1862, p. 1). Gibbard also stated that the Ottawa had no greater fishing rights than "squatters rights." One week later, William Keating, who had assisted with the 1850 Lake Huron treaty, wrote a reply to Gibbard:

With regard to the fisheries, I am at a loss to know upon what grounds it becomes necessary for the Indians to procure licenses to cast their nets round an island [Manitoulin] secured to them, if not by the parchment usual among ourselves, by a title equally sacred to all right thinking men - the pledged word of Her Majesty's Representatives. [Globe, 28 March 1862, p. 1]

The newspaper debate between Gibbard and Keating drew public attention to the growing problems resulting from the government's new fisheries legislation and leasing system. Keating's words reminded the Canadian public that Native people had been promised in treaties that their fisheries would be protected. Gibbard's words reminded Canadians that racial prejudice was a problem that was not monopolized by their neighbours south of the border.

The Manitoulin Island Treaty of 1862

In the fall of 1861, a party of government officials visited Manitoulin Island to seek a land surrender from the Ottawa and Ojibwa. The government offered to reserve 25 acres for each family and guaranteed access to firewood for home use. Nothing was said of compensation, fishing rights, or other resource rights. The outcome should have been predictable based upon the reaction of Native fishermen to the Fishery Act. The Ottawa and Ojibwa drove them off the island with threats of violence (Wightman, 1982, pp. 43-44). In a letter printed in The Daily Globe on 13 December 1861, Ne-gaun-e-ke-zhig explained the reasons why his people had rejected the treaty proposal. Among other factors, Ne-gaun-e-ke-zhig stated that "some of their fisheries around the Island have, for the last three or four years, been leased to whites" (Globe, 13 December 1861, p. 1).

In 1862, the government decided to make another attempt to obtain the surrender of Manitoulin Island. This time William McDougall, who was both Superintendent General of Indian Affairs and Commissioner of Crown Lands, journeyed to Manitoulin Island to negotiate with the Ottawa and Ojibwa Chiefs. McDougall reached Manitowaning on 4 October 1862, and attended
a council of Manitoulin Chiefs. McDougall was vigorously opposed by the Wikwemikong Chiefs who refused to participate in any treaty. However, McDougall found the Ojibwa from the rest of the island to be more receptive to his overtures. The cultural and other differences that divided the island along Ottawa and Ojibwa lines was exploited to advantage by McDougall, and he was able to persuade the Ojibwa Chiefs who resided on the western part of Manitoulin to sign a treaty. The 1862 treaty did not apply to the Wikwemikong Peninsula, but the government was able to obtain over three-quarters of the land on the island.

In return for their land, the Ojibwa were promised small reserves near their existing villages and income from future land sales. McDougall was careful to omit words like those used in the 1850 Lake Huron Treaty with respect to fishing rights. The 1862 Manitoulin Treaty stated:

All the rights and privileges in respect to the taking of fish in the lakes, bays, creeks and waters within and adjacent to the said Island, which may be lawfully exercised and enjoyed by the white settlers thereon, may be exercised and enjoyed by the Indians. [Morris, 1880, p. 311]

1863: Fishery Chaos

The 1862 Manitoulin Island Treaty solidified the resolve of the Wikwemikong Ottawa to protect their fishing rights. In 1863 they destroyed fishing stations on nearby islands that had been leased by Gibbard to non-Native fishermen. These included a fishing station on Lonely Island that had been leased to Proulx and La Rond, the same fishermen who had been exiled from Wikwemikong for fishery infractions on Club Island in 1849. On 30 June 1863, a party of about twenty-five Wikwemikong Ottawa went to Lonely Island and confronted Proulx and La Rond. They intended to force the two fishermen off the island, but were prevented by the arrival of Gibbard and his crew. Despite Gibbard’s warnings, the Wikwemikong party returned shortly after Gibbard’s departure and drove Proulx and La Rond from Lonely Island (Mercury, 3 August 1863, p. 2).

When Gibbard learned of the incident he rounded up a posse of twenty-one armed constables and returned to Lonely Island. Finding the island deserted, Gibbard and his party proceeded to Wikwemikong. At the village Gibbard was driven back to his boat by a large force of armed Ottawa warriors. Gibbard then proceeded to Sault Ste. Marie, and during a stop at Bruce Mines he arrested an Ottawa man named Oswa-ane-meeke. Oswa-ane-meeke was charged with being one of the "law-makers of Wikwemikong," and he was taken to the courthouse in Sault Ste. Marie (Canada SP, 1863, vol. 18, n.p.). Fortunately for Oswa-ane-meeke, a vacationing lawyer from Toronto, D. Blaine, heard about his case and came to his defence. Blaine was able to show that Gibbard had clearly overstepped his authority, and the judge ordered Oswa-ane-meeke released.
By a matter of coincidence or otherwise, Gibbard and Oswa-ane-mekee got on board the same ship that departed from Sault Ste. Marie on 27 July 1863. During the evening the ship encountered heavy fog in the north channel of Lake Huron. The following morning, Gibbard could not be found aboard the ship. A few days later Gibbard’s body was discovered washed up on the shore of Manitoulin Island. A public inquest determined that Gibbard had been murdered. Many eyes turned toward Oswa-ane-mekee, but no witnesses were found to prove a connection and no one was ever charged in the case.

Following the death of Gibbard, the Commissioner of Crown Lands was anxious to avoid further acts of violence. Less than one month after Gibbard’s death, W.F. Whitcher, the fishery overseer for the Lower Great Lakes, was appointed to negotiate an agreement with the Wikwemikong Chiefs. Whitcher was able to convince several Ottawa Chiefs to accompany him to Quebec to discuss their problems with the Superintendent General of Indian Affairs. According to newspaper reports, the meeting in Quebec was a success and the parties had agreed that "no leases beyond their [the Ottawa’s] own would be made among the disputed islands east of Manitoulin, where both white and Indians once again were to be allowed to fish freely" (Wightman, 1982, p. 53). The Ottawa Chiefs had a significantly different understanding of that agreement. In a report written in 1876, the Ottawa recalled:

[Whitcher] admitted their right to, and confirmed the Indians in the possession of those same Fisheries and Limits [as recognized by the 1836 treaty] - and that afterwards at Quebec ... the Minister [of Indian Affairs] did not say one word tending to annul the rights of the Indians thereto. [NAC RG 10, 1972, file 5530]

Troubled Waters: The Legacy of William Gibbard

Gibbard’s death focused new attention on the conflicts between Native fishing rights and The Fishery Act. After reviewing English common law, Adam Watson, Solicitor General, concluded:

[T]he rule of law is that the Public have the right of way over and the right of fishing in all such waters, and that neither the Crown nor any private person can assert any special right in or exclusive use of highway or of fishery in such waters. [NAC RG 10, vol. 323, p. 21,644]

Watson further ruled that the law gave the Crown the authority to grant exclusive rights to lease fishing stations to any commercial fisherman on unoccupied Crown Lands.

Watson’s legal opinion was pivotal to amending The Fishery Act in 1865. The revised act provided for the first time a regulation with respect to Native fisheries. Section 17(8) stated that the Commissioner of Crown Lands:
May appropriate and lease certain waters in which certain Indians shall be allowed to fish for their own use as food in and whatever manner and times are specified in the lease, and may permit spearing in certain localities. ... [Canada LA, 1866, n.p.]

In 1866, the Commissioner of Crown Lands directed that henceforth "all Fisheries around Islands and fronting the mainland belonging to Indians be disposed of by the Fisheries Branch of this Department" (NAC RG 10, vol. 323, pp. 216, 132). Although the Crown Lands Department made public statements about its desire to assist Native people obtain fish "for their own use," the new legislation made it clear that the department was under no obligation to provide them with leases for their traditional fishing grounds.

The Indian Department no longer had authority to deal with fisheries, and Indian agents were hard pressed to explain this shift in policy to Native fishermen. Indian Agent William Bartlett wrote candidly about these matters on 25 March 1867:

[All the other bands have a vague idea amongst them that a treaty was made by their forefathers with the British Government, by which the Indians are allowed to hunt and fish whenever and wherever they please. I try to dispel this idea whenever it is alluded to. [NAC RG 10, vol. 550, p. 207]

Throughout the 1870s, Crown Lands officials repeatedly directed Indian Affairs agents to dispel any ideas about Native fishing rights. A memorandum dated 10 December 1875, clearly outlined the new directions:

[The Indians at Christian Island [in Georgian Bay] and perhaps elsewhere, believe, and are confirmed in the conviction by the Indian Superintendents, that there exist reservations of fishing rights in public waters connected with Indian lands, ceded or unceded over which they have an exclusive control, it is highly important in the interest of law and order that they should be informed of what is their legal position in respect of fishing stations. The fishery laws make no exception in favour of Indians: they are subject to the same restrictions as all other fishermen. [NAC RG 10, vol. 423, p. 179]

On 17 December 1875, the Department of Marine and Fisheries published a circular that was intended to clarify "the exact legal status of Indians in respect of the Fishery Laws." The circular stated:

Indians enjoy no special liberty as regards the places, times or methods of fishing. They are entitled only to the same freedom as White men, and are subject to precisely the same laws and regulations. They are
forbidden to fish at unlawful seasons and by illegal means, or without leases or licenses. But regarding the obtainment of leases or licenses the Government acts toward them in the same generous and paternal spirit with which the Indian tribes have ever been treated under British rule. [NAC RG 10, vol. 423, p. 265]

Conclusion

The "generous and paternal spirit" of the government had transformed the Native fisheries in Lake Huron and Georgian Bay around Manitoulin Island from thriving commercial enterprises to marginal subsistence activities within a period of less than twenty years. By degree, government legislation restricted Native fishing rights that had been promised in treaties. That legislation, although purported to be guided by principles of conservation and sustainable resource management, allowed non-Native commercial fishermen to deplete the fisheries that had sustained Native subsistence and commerce for countless generations.\textsuperscript{15}

Fishery depletion in Georgian Bay and Lake Huron was detected as early as 1870. Although pollution from saw and pulp mills contributed to the decline of fish stocks, it was mainly caused by a rapidly growing and poorly regulated non-Native fishing industry. By the 1880s, most Native leases had been taken over by non-Native commercial interests who were increasingly controlled by several powerful American companies (Wightman, 1982, p. 96). Native fishermen found themselves unable to compete with these companies in the commercial fishery, which had become a capital-intensive industry.\textsuperscript{16}

Larger vessels were used and deeper waters exploited with new technology. By the mid-1880s, Native fishermen "were left little but their inshore grounds and even these had increasingly been invaded by illegal trapnets" (Wightman, 1982, p. 101). In 1870, a fishery overseer responsible for the waters adjacent to the Bruce Peninsula noted that "the fish do not come so closely inshore as formerly and that they [Native fishermen] have to set their nets as far out in the lake as 12 or 15 miles" (Canada SP, 1871, vol. 5, p. 280).

In a move to conserve fish stocks, the government adopted new fishery regulations to close seasons for certain fish species. The closed seasons were put in place during the spawning periods, which effectively terminated the few remaining Native commercial fisheries. The Native reaction was predictable but ineffective. At Manitowaning the resident Indian Superintendent urged the Crown Lands Department to revise the regulations:

[S]ome understanding should be had, as the Indians fishing for the use of their families, during the close season. I fear it will be impossible to restrain them from doing so, and they will consider any prosecution for so doing, as an infringement upon these rights; the belief that the fisheries in the neighbourhood of their settlements belong to them, and that their rights have been recognized by treaties being very general among them. [NAC RG 10, vol. 578, pp. 71-72]
Throughout the 1870s parties of Ottawa and Ojibwa continued to raid non-Native fishing stations and destroy equipment to protest the loss of their traditional fishing grounds. However, by the end of the decade, the Crown Lands Department responded by further curtailing their leases and restricting the use of fish spears (NAC RG 10, vol. 578, pp. 384-85, 417-18). In 1878, William Plummer, who had been an Indian Superintendent on Manitoulin Island, offered the following observations on the demise of Native fisheries:

"The fisheries which have been exclusively Indian have for the past few years been taken from them and given to white traders who employ white fishermen. ... It cannot be for the public interest to lease the best fishing grounds to a few white men and to deprive several hundred Indians who reside in adjacent villages of the privileges which they have enjoyed from time immemorial. ... As to Indian treaties, it is well known that in the general surrenders, large tracts of land and adjacent islands were reserved and there are no treaties in existence covering any surrender of these tracts and islands and the waters by which they are immediately surrounded. It is also well known these tracts and islands were released for the express purpose of retaining the privileges of fishing in the adjacent waters, and it is quite natural that they should think they are arbitrarily deprived by Government of rights they have never surrendered. [NAC RG 10, vol. 2064, file 10099, n.p.]

Despite Plummer's eloquent protest, the course that had been set for Native fisheries would not be altered. In an ironic twist, it would appear that Gibbard's legacy for the Ottawa and Ojibwa fishermen was to put to rest their "dabbling" in fisheries."

Notes
1 The phrase "free as by the past" was written by Joseph Nolin, who recorded the events of Treaty No. 3 at the Northwest Angle of Lake of the Woods on 3 October 1873 (Morris Papers, p. 512). Although it refers to another area and another time, the phrase reflects a similar understanding by the Native people of the Manitoulin area of their treaty rights to fish.
3 For more information on the Iroquois wars, see Trigger (1976 and 1985) and Heidenreich (1971).
4 In the 1860s, the production of maple sugar on Manitoulin Island was estimated to be 117,000 pounds per year (Wightman 1982: 37).
5 One of the most productive Native fisheries in the Upper Great Lakes region was the Fall whitefish fishery at Sault Ste. Marie. Many descriptions of the plentiful whitefish harvest were recorded by early non-
Native visitors (see Macdonald 1978).

6 For more information on sturgeon fishing and isinglass, see Holzkamm, Lytwyn and Waisberg (1988).

7 For more information on the Manitoulin Treaty of 1836, see Wightman (1982) and Bleasdale (1974).

8 The use of wampum in the 1836 treaty is significant. Wampum was often used as a mnemonic device by Native people to aid the oral recall of important historical events.

9 By 1840 there were a few non-Native commercial fisheries in operation on the Great Lakes (Keller, 1978, pp. 12-14). Non-Native commercial fisheries at that time were limited mainly to the Lower Great Lakes, but there was some activity in southern Lake Huron, especially in the vicinity of the Fishing Islands off the western coast of Georgian Bay (McCullough, 1989, p. 16).

10 The encroachments of non-Native fishermen, especially Americans was noted in the daily newspapers. On 20 June 1859, for example, The Daily Globe reported that "small vessels from Detroit have, during the present season, been trading among the islands [near Manitoulin]. ... They have likewise established some fishing stations, without license, and taken the catch to their own ports."

11 For more information on the 1850 Lake Huron Treaty, see Hansen (1988).

12 In 1807, the government of Upper Canada passed its first fishery legislation, "An Act for the Preservation of the Salmon" (Hansen, 1986, p. 19). Between 1807 and 1857, several other pieces of legislation were enacted respecting specific fisheries in parts of Upper Canada (Hansen, 1986, pp. 19-22).

13 The Wikwemikong people have continued to assert that their fisheries were protected by the 1836 treaty. In 1894, for example, Chief William Kinoshaway of Wikwemikong petitioned the Indian Department to protect their rights. In part, that petition stated: "Our forefathers were the owners of the land, of the animals, of the fishes and they used them as their food. It was established by Treaty that here, where we live, only Indians should dwell, and that the fisheries would be our fisheries all round. This was agreed to on 9 August 1836, by Hon. F.B. Head. Since that time we never did make any other agreement with the Government by which the Government could come in possession of what belonged to us; until this day we have never received anything for which we should cease to own what our forefathers owned of old." (NAC RG 10, vol. 2758, file 149,944). In 1896, Toma Kimoshameg (Kinoshaway?) showed the local Indian agent on Manitoulin Island a copy of a map that was drawn at the time of the 1862 treaty. The map illustrated an area of water offshore the unceded Wikwemikong Peninsula that encompassed a large expanse of Georgian Bay and Lake Huron. Kimoshameg was the Wikwemikong chief in 1862, and he stated that although they had not taken part in that treaty, McDougall had agreed to reserve the area shown on the map (NAC

14 For more information about Gibbard and the events of 1863, see Leighton (1977).

15 The impact of over-exploitive non-Native fisheries and poor fishery management on sustainable Native fisheries was noted by Charles Skene, Superintendent of Indian Affairs at Parry Island in 1878. Skene observed, "certainly so long as only the Indians fished and hunted no one heard of the great scarcity of game and fish that now prevails" (NAC RG 10, vol. 2064, file 10,099).

16 During the 1880s, a jurisdictional dispute over fisheries arose between the federal and provincial governments. The government of Ontario claimed jurisdiction because of constitutional arrangements made during Confederation in 1867. The province eventually succeeded in gaining jurisdiction over fishery management and regulation, but Canada retained authority to enact fishery legislation. This dispute contributed to poor fishery management during the latter decades of the 19th century, and it also frustrated Native claims to fishing rights.

17 Ottawa and Ojibwa fishermen around Manitoulin Island continued to assert their fishing rights in traditional waters, but their ability to participate in the commercial fishery was effectively limited by restrictive government regulations. In 1983, a study of Native fisheries in Ontario found that only four per cent of commercial fisheries licenses for the Great Lakes were held by Native people (Milko, 1983, p. 14).

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