

# **What happened to the Six Nations Lands on the Grand River**

## **Introduction**

The Haldimand Proclamation of October 25, 1784, indicated that the Six Nations were to have lands on the Grand River that the government had purchased from the Mississaugas north from the mouth of the river to the head of the river which is near present-day Dundalk. To accomplish this purpose and to provide additional lands for loyalist settlement, the government had purchased lands from the Mississaugas earlier in 1784. At a meeting at Niagara on the 22nd of May, 1784 with government officials, representatives of the Mississaugas and the Six Nations including Joseph Brant, the Mississauga Chief Pokquan, made it clear that the Mississaugas did not own all the land between lakes Ontario, Erie and Huron that the government was seeking but agreed to transfer for the use of the loyalists as well as the Six Nations that part of their lands westerly of a line running due northwest from the mouth of Burlington Bay to the headwaters of the Thames. (The Mississauga Grant) This line according to the Mississauga deed was supposed to strike the headwaters of the Thames River northeast of present-day Stratford.

At the time, the Mississaugas owned all that part of southern Ontario north of Lake Erie, from the Niagara River around the west end of Lake Ontario to the Rouge River, (present easterly boundary of Toronto), north to the area of present-day Newmarket, westerly towards present-day Orangeville to a point west of present-day Arthur on the Conestoga River, down the Conestoga River to the headwaters of the Thames northeast of present-day Stratford, down the Thames to present-day Woodstock and southerly and westerly to Catfish Creek emptying into Lake Erie at present-day Port Bruce, halfway between present-day Port Stanley and Port Burwell.

## **Marking the Limits of the Tract**

It was therefore necessary to mark the limits of the Haldimand Tract within the Mississauga Grant. Arrangements were made to have the acting deputy land surveyor, Augustus Jones, survey the easterly boundary of the lands purchased from the Mississauga from the mouth of Burlington Bay. It turned out that this line, later known as "The Jones Baseline," (the boundary between Halton and Wentworth County's now a portion of the boundary between Burlington and Hamilton), did not strike the headwaters of the Thames River but struck the Conestoga River, (a northern tributary of the Grand), northwest of present-day Arthur, crossing the Grand River at a point between present-day Fergus and Elora. The Mississauga Tract therefore did not include the headwaters of the Grand up in the Luther Marsh near Dundalk.

This problem, along with the meandering course of the Grand made it necessary to mark the precise limits of the Grant. Jones was instructed to survey the tract. Joseph Brant was a friend of Jones and accompanied him and his surveying party in preparing this survey. It was agreed that straight lines would be drawn from points marking the midpoint of the principal bends in the river and the six miles laid out on each side of these straight lines from the mouth of the river to the limit of the tract acquired from the Mississaugas. Jones presented his plan in the company of Brant and other Six Nations chiefs to the governments' Land Board at Niagara on February 1st, 1791. This arrangement on the plan was approved and signed by members of the Land Board and by the said Chiefs. This tract contained 675,000 acres.

### Claims Above Elora

Recent Six Nations' land claims have also laid claim to an additional 275,000 acres between Elora and Dundalk which were lands which the Mississaugas did not own and which therefore the government did not acquire and hence could not give land to the Six Nations which it did not own. It appears that Brant and the other Chiefs accepted the fact that the Haldimand Tract did not include all the lands as far north as Dundalk and as indicated earlier agreed with the Jones survey previously mentioned. Owing to the manner in which Joseph Brant fought with government representatives in subsequent years over disposition of lands within the 675,000 acre tract, I am sure that if he thought they had a legitimate claim to the lands above the line between Fergus and Elora, that history would have recorded the same.

### Lands Given Away

In any event after the Haldimand Proclamation, Brant began inviting many of his friends and comrades from Butler's Rangers to settle on the banks of the Grand. These Butler's Rangers had lived among the Six Nations in the Mohawk Valley in present-day upstate New York and had fought with the Six Nations during the American Revolutionary War. The following lands in Haldimand were given by Brant to various members of Butler's Rangers and others as follows:

• Henry Nelles and family, Nelles Tract	Seneca	5,760 acres
	Oneida	400 acres
• Adam Young and family,	Seneca	3,000 acres
• John Huff,	North Cayuga	400 acres
• Capt. John Dochstader, most of present township of	Canborough	19,500 acres
• John Dochstader nephew of Capt. John, Fradenburg Tract	South Cayuga	1,200 acres
• Hugh Earl, married Joseph Brant's sister,	Dunn	1,000 acres
• The Sheehan Family, Sheehan Tract,	Dunn	1,200 acres
• William Dixon, lawyer, compensation for legal services, Present township of	Sherbrooke	4,000 acres
• William Dennis, Dennis Block	Oneida	300 acres
• Nicholas Cook, accomplished flute player favourite among the Indians, Cook Block	Oneida	200 acres
• Thomas Runchy, inducement to build mill on MacKenzie Creek subsequently known as	Adross Block	800 acres
• Robert Anderson, bonus for having erected a grist mill, sawmill and distillery, Anderson Block,	Oneida	600 acres

**Totaling 38,360 acres**

In Brant County the following lands were given by Brant (or the Chiefs after his death) to the following persons:

- William Kennedy Smith, married a Mohawk lady and his son  
William Kirby, the Smith and Kirby Tract northeast of Brantford 1,300 acres
- Kerr Sisters, nieces of Joseph Brant, Kerr Tract SW of Brantford 2,000 acres
- Jacob Brant, second oldest son of Joseph Brant, south of Kerr Tract 237.5 acres
- John Brant, the youngest son of Joseph Brant, south of Jacob Brant 237.5 acres
- Robert Addison, son of Capt Ralph Clench, Butler Ranger,  
married into Brant family, Clench Tract S of Brant Brother's farms 1,500 acres
- John Thomas, helped build the Mohawk Chapel 200 acres
- Jemina Stewart and Sarah Ruggles, daughters of Brant  
Johnson, Sachem and Warrior, gift for his services during French  
Wars and American Revolution 1,400 acres
- Rachel Parker, wife of James Parker 100 acres
- Aaron Helmer, reward for his help in 1837 & 1838 during small pox outbreak 100 acres

**Totaling 7,075 acres**

Brant's practice of inviting white settlers to the district should not be attributed solely to a gesture of friendship. He realized from the beginning that the tract was too large to be managed productively by the Six Nations and that if white merchants and farmers were invited to live amongst them that the Six Nations would benefit by learning farming skills and so that mills and other facilities would be constructed to benefit Six Nations. The Six Nations men were basically warriors and hunters. The war was over and the game for hunting was being depleted so Brant felt that they needed to be trained in new skills involving the arts of husbandry.

### **Brant's Power of Attorney and Sales**

After the Grand River Tract had been about 10 years in the possession of the Six Nations, the Chiefs thought it best to sell parts of the Reserve and use the interest on the proceeds to purchase various provisions. With this object in view Joseph Brant was given Power of Attorney by the Chiefs in 1796 for the purposes of negotiating sales of land with purchasers and for surrendering the parcels sold to the government so that patents could be issued.

In 1798 Joseph Brant sold over 350,000 acres being all that portion of the tract north of Brantford., consisting of the present townships of Dumphries, Woolich and Pilkington, Waterloo and Nichol and those lands in Haldimand County comprising the present townships of Moulton and Canborough for a grand total of 352,707 acres. Brant had always taken the position that he on behalf of Six Nations had the right to sell lands to whomever he wished. Six Nations did not have this right without government consent. However his practice in this regard became alarming to the government for fear that if restrictions were not put in place, that there would be no Six Nations land left. Accordingly, there was pushback from the government over the above mentioned sales that Brant had made based on the principle that the lands were supposed to be kept for the benefit of Six Nations. However Brant threatened to attack York, (original name for Toronto), if the government did not accept a surrender and issue patents for the sales he had made. The government officials capitulated and Brant was present at the Land Board in York on the 5<sup>th</sup> of February, 1798 to ensure that proper deeds were issued to persons to whom he had sold the lands.

### Surrender For Sale

During the 1830's the following surrenders took place so that the lands in question could be sold for the benefit of Six Nations:

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|---|--------------|
| • 1830 - original town plot of Brantford  | 807 acres    |
| • 1831 - northern part of present townships of north and south Cayuga on the lower part of the river                    | 20,670 acres |
| • 1834 - residue of township of Cayuga and present township of Dunn and part of the townships of Canborough and Moulton | 50,212 acres |
| • 1835 - part of the township of Brantford  | 48,000 acres |

**Totaling 119,689 acres**

### What Was Left

By 1840, Six Nations had disposed of approximately 515,000 acres comprising the lands above mentioned which were given away, 45,000 acres, the lands sold by Brant 350,000 acres and the lands surrendered before 1840, 120,000 acres. Subtracting that total from the 675,000 acres determined by the Jones survey, there is left approximately 160,000 acres comprising the remnant of the townships of Oneida and Seneca, the Townships of Onondaga, Tuscarora and those parts of the Township of Brantford consisting of the Johnson Settlement on Fairchilds Creek, the Martin Settlement near Cainsville and the Eagle's Nest Tract all on the north side of the river and the Oxbow Tract and the Burtch Tract on the south side of the river. These tracts in Brantford Township were largely settled by white loyalists or white persons of European extraction who had leased their lands from Six Nations. In total these tracts in the Township of Brantford comprised approximately 11,500 acres.

### The Problem

During Joseph Brants lifetime and following his death in 1807, the grants, leases, and surrenders began to expand out of control. Brant's youngest son John became superintendent of Indian Affairs and carried on the Land Policies of his father. The matter was further complicated by the fact that individual Six Nations persons were selling the plots they occupied to incoming white people. These sales were also made by various Chiefs. By the 1830's the problem of white encroachment on Six Nations lands was becoming acute, there being approximately 2,000 Six Nations people on the Haldimand Tract and approximately 2,000 white settlers. There were some squatters without a vestige of title, but most of the settlers had bought land from individual Six Nations persons or who had acquired some sort of right to their land through transactions with the Six Nations although these dealings did not have government sanction. The government was concerned that this practice of selling individual parcels of land would eventually mean that there would be no land left and the Six Nations would end up scattering to other areas. Quoting from the Historical Atlas of Brant County published by Page & Smith in 1875:

“In their Councils the Indians were not always consistent; sometimes they complained of the whites encroaching on their lands, and then again they would loudly assert their right to lease and sell as they choose. Had the Chiefs been allowed to do as they liked, they would soon have got rid of their lands. Governor Haldimand gave it to them and their posterity: so that they may enjoy it forever.”

Faced with this situation, both government representatives and the Chiefs recognized that only by consolidating their lands would the Six Nations people be able to remain in the Haldimand Tract. So the challenge was therefore to determine how many acres of land and which townships were to remain reserved for the Six Nations people and which would be surrendered to the Crown and sold off for their benefit.

### **The Solution**

Matters come to a head in 1841 when the government laid before the Six Nations Council plans to reserve certain lands for the benefit of the Six Nations and to sell the remainder. The problem is set out in the background papers of the 1841 surrender which papers were dated the 5<sup>th</sup> and 15<sup>th</sup> of January, 1841 and were prepared by the subsequently much maligned, (because of accounting irregularities), Samuel Peter Jarvis. He pointed out that among other things:

“From a careful inquiry into the nature of the claims of white men to the lands in their occupation, it is but too plainly apparent that they have been invited by the great majority of Indians, and that the latter have received large sums of money.....So far, indeed from the government receiving any cooperation from the Indians, notwithstanding their repeated remonstrances and calls upon [the government] for protection, [the government] find every measure proposed thwarted by the conduct of the Indians themselves, by their repeated pretended sales of their public property, and that, to, not only within the last year, but....within the last fortnight, by some of the Chiefs and Indians who had been most urgent in their remonstrances.”

He went on to say that in these circumstances it could not be expected that upwards of 2,000 white persons should be removed from their homes, “for which in some instances they had paid so dearly to individual Indians.” It was therefore suggested that they approve of the government disposing for their benefit of all their lands with the exception of the farms that were at that time in their actual occupation and cultivation and an additional 20,000 acres as a further reservation, the selection of which would be deferred until after a general survey of the tract. The Surrender document following these presentations was signed on the 18<sup>th</sup> of January, 1841 by six Chiefs “in full Council assembled at Onondaga Council House.” The six Chiefs were Moses Walker, John Smoke Johnson, (grandfather of Pauline Johnson), Peter Green, Jacob Whitecoat, Jacob Fish as well as two others with native names, Skanawate and Kanokaretini "being deputed by the said Six Nations in full Council assembled to assent to the same on their behalf.”

### **Problem With The Solution**

Within months of the 1841 Surrender some Six Nations people protested and petitioned against the Surrender claiming the Chiefs had not been given enough time to deliberate. However there was pushback against this position from John Smoke Johnson, senior Six Nations Chief and signatory to the 1841 agreement. He sent a letter to the Crown indicating that the Chiefs disclaimed any participation in the said petition. He also disagreed that the Chiefs had not had sufficient time to deliberate saying “That is not the case, for we had nine days altogether to deliberate on the Chief Superintendent’s proposals.” There followed various meetings between the Crown and Six Nations in which the Six Nations leaders debated which lands they wanted to reserve and which lands they wanted to have sold. Finally on Wednesday December 18, 1844, David Thorburn, the Commissioner of Indian Affairs, obtained an agreement with 45 Chiefs

from the Six Nations of the Grand River. Those 45 Chiefs signed a document, (of which the writer has a copy), in which they unanimously agreed that they would accept the reserve south of Brantford and unanimously agreed that the Crown could sell the land outside the reserve.

### **The 1844 Surrender**

As pointed out in the Holmes report, the 1844 agreement resulted from 2 meetings held on December 13 and December 18, 1844. The archival records of these meetings consist of a two part document. The first part is Thorburn's report of the meeting on each of the two days and includes the signatures of the Chiefs. The second part of the document is a minute of Council recording how each day proceeded, including the count of the number of Chiefs present from each nation.

The 8 page report begins with an account of the December 13 Council meeting at which Thorburn recommended to the Chiefs that the reserve be confined to the township of Tuscarora and that the remainder of the land be sold for their benefit. The Council convened five days later on December 18. The minutes indicate that David Thorburn, his assistant James Winniet and 47 Chiefs were present. The meeting was opened by Chief Buck and Chief Henry Brant delivered the reply of the Chiefs. The minute indicates that they were reluctant to surrender all their lands with the exception of the Township of Tuscarora. A discussion ensued, their answers were taken down by the Commissioner and each read and recited by paragraphs to the Council by the interpreter and assented to by their speaker as the unanimous wish of the Six Nations after which the respective Chiefs confirmed the same by their signature before the rising of Council.

Joan Holmes goes on to state in her report,

"It is my opinion that the report of Thorburn, signed by the Chiefs and the minute of the two Council meetings show that the Council was properly called, time was given for consultation and deliberation, an interpreter was used and the document was carefully reviewed before signing. There were reportedly 47 Chiefs at the meeting of December 18, the document indicates that 45 Chiefs signed the document."

Among the Chiefs who signed the document were Moses Walker, John Smoke Johnson, Peter Green, Skanawate and Kanokarentina five of the six Chiefs who had signed the 1841 Surrender.

Of importance to Haldimand County is the portion of this document which relates to the proposition of the Commissioner that they select as their reserve the lands in the Township of Tuscarora. The reply of the Chiefs was as follows:

"Upon the foregoing proposition of the Commissioner, the Chiefs of the Six Nations do agree to make the following reply the same having been duly maturely considered in Council on the 13<sup>th</sup> of December last and again on this 18<sup>th</sup> day of the same month and now answer that they are unanimous.....that the lands on the south side of the river from that which is deeded at Burtch's Landing, [Newport], down to the west side of the Plank Road except the tier of lots adjoining the Plank Road..."

The document went on to say that their lands in the Oxbow, Eagle's Nest, Martin and Johnson Settlements [11,500 acres] could be sold. The document also indicates that they wished to reserve 200 acres near the Mohawk school, (in the Eagle's Nest Tract in Brantford Township), a range of lots in Onondaga Township as well as a range of lots in the Burtch Tract.

## The 1845 Meetings

The government was not in agreement with reserving a range of lots in Onondaga Township and the range of lots in the Burtch Tract. Subsequent meetings therefore occurred between the Six Nations and government officials dealing with these issues. At a meeting on September 17 and 18, 1845 at which 66 Chiefs were in attendance, the following was recorded on September 17:

“After much time spent in discussion.....it was finally resolved.....reserves should consist of the lands adjoining the tier of lots on the west side of the Plank Road in the Township of Oneida and the whole of the Township of Tuscarora and such lots [certain lots in the Burtch Tract].....and that in the said Township of Brantford at the Mohawk Mission School 200 acres and further in the Township of Onondaga a tier of river lots from 45 to 61 inclusive. The Council adjourned at dusk 7 O’Clock to meet again tomorrow morning at 8 O’Clock AM.”

The Council minutes for the following day, the 18<sup>th</sup> of September, 1845 have apparently not been located. However, a public notice describing the lands reserved for the Six Nations published shortly thereafter is consistent with the intention indicated at the September 17 meeting. The Public Notice which warns squatters (settlers) to remove themselves from the Reserve Lands by the 1<sup>st</sup> of January next, described the reserve lands as:

“Lying on the south side of the Grand River, West from the tier of lots adjoining the Plank Road, in the Township of Oneida, including the Township of Tuscarora, and that part of the Township of Brantford, to the deeded land at Burtch’s; and a parcel of 200 acres lying contiguous to the Mohawk Mission School, together with a tier of River lots, from 45 to 61 inclusive, on the North side of the said River in the Township of Onondaga....”

The meeting of September 17, 1845 settled the issue of the lots to be reserved in the Township of Onondaga and partially solved the issue of the lots to be reserved in the Burtch Tract. Note however that the meeting repeated that the only lands in Oneida that were to be reserved were the lands west from the tier of lots adjoining the Plank Road.

The Council met again at various times to discuss various issues in March of 1848. Finally on March 25, 1848 they agreed to the sale of the lands in the Burtch Tract.

## Formalization of the Reserve Boundaries

In November 1850, Governor General Lord Elgin issued a proclamation extending a statute for the protection of Indian Lands to the Six Nations Reserve describing the said reserve by reference to the particular lot numbers in Oneida comprising lots numbers 1 to 6 in the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Concessions and also River Lots numbers 1 to 12, the whole of the township of Tuscarora and a parcel of 200 acres near the Mohawk Church and the lands on the north side of the river in the Township of Onondaga being River Lots east of Fairchilds Creek known as river lots 45 to 61 in the 3<sup>rd</sup> Concession of the said township. (Approximately 52,000 acres)

### **Policy of the 1841 Surrender Followed**

It is evident from the events taking place from 1841 until 1848, that despite objections to it at the time, the policy set out in the 1841 Surrender was followed, namely that the Six Nations were surrendering all their lands with the exception of certain portions thereof which they wish to retain for their exclusive use. Following the Surrender document of 1841 there was never any challenge to the basic concept that all their lands were to be sold except those they wanted to have reserved. All the meetings after 1841 were simply to iron out which portions of their lands they wished to reserve and which could be sold. From and including the meeting of December 18<sup>th</sup>, 1844 and all subsequent meetings it is clear that the intention was, so far as Haldimand County is concerned, that only the lands in Oneida west of the tier of lots on the Plank Road were to be reserved and that the rest were to be sold. All the meetings after 1844 dealt with certain lands in Brantford Township and Onondaga Township and it was finally agreed that most of those lands could be sold because they were already in the possession of white settlers who had received leases from Six Nations or from individual Six Nations Persons.

### **Confirmation of 1844 Surrender by a Chief**

On the 18<sup>th</sup> of May, 1852, "George Styers of the Township of Oneida and the County of Haldimand, an Indian Chief received a patent for Lot 68 on the Grand River. This patent indicates that said Lot 68 was part of the lands set apart for the use of the Six Nations Indians. George Styers paid the government 217 pounds, 18 shillings and 9 pence for this property. As pointed out by Dr. David Faux, this surrender proves, "that the Six Nations considered the 1844 surrender of Oneida Township etc. to be valid. Otherwise why would a lower Cayuga Chief purchase the lands he had been living on for 20 or more years, paying a large sum of money to the Crown in order to secure a clear title to this land in fee simple...If it was still Six Nations Land this transaction would make absolutely no sense....this is a clear example that the Chiefs stood by their decision of 1844- there was at the time no controversy about the matter."

### **Sympathy for Present Land Defenders**

I have noticed from press reports that there is a great deal of sympathy for the present Land Defenders at Caledonia who appear to firmly believe that the original Six Nations lands were stolen from them. I hope the foregoing gives a better understanding of what actually happened to these lands. There appears to be no question that the various Six Nations leaders authorized all the lands except the present Reserve to be sold. There is a great deal of dispute about whether these lands were properly paid for and what happened to monies that were paid. That is the subject of the lawsuit which is scheduled to come to trial next year and which has been ongoing since 1995. That is the only lawsuit which the Six Nations have commenced and it does not deal with the return of any lands but merely asks for an accounting of the sale proceeds of the lands that were sold. As Justice Arrell observed in the Brantford Injunction case in 2010, other than the said lawsuit,

"...the Six Nations despite 25 to 30 years of archival research on their own, have never elected to commence any legal proceedings against any entity, being either private or government, for the return of this land or title to the land."

## **Conclusion**

In making the above comments I am not trying to disparage or denigrate Six Nations people but I am only asking that they seriously consider what actually happened to their lands. I have attempted to review the historical record as to the reason these lands were surrendered and most of them sold. I suppose that it is only human nature the individual Six Nations members would be inclined to sell the plot of land in their possession of in order to gain some fast money. The atmosphere was such, promoted by Brant, that Six Nations should have the right to sell their lands free of government interference. The government on the other hand was concerned that if this concept was not checked, that there would be none of the original tract left for the benefit of Six Nations. Hence the boundaries of the present reserve.

## **Further Reading**

If anyone is interested in pursuing further research, the following are available in the Haldimand County Library system:

- The Valley of the Six Nations written in 1964 by Charles M. Johnson, a then professor of history at McMaster University
- The Historical Atlas' of Haldimand County and Brant County published in the 1870's by H.R. Page Company and Page and Smith respectively.
- The Report of Joan Holmes and Associates filed in the Brantford Injunction Case in 2010 is available along with Dr. David Faux's manuscript on the subject at [www.davidkfaux.org](http://www.davidkfaux.org)

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