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A Job For Pickering, 1791

Robert Morris's Seneca Investment.

In the spring and summer of 1791, a showdown over ownership and control of four million acres in western New York rattled the administration of President Washington. The principals in this controversy were President Washington, Secretary of State Jefferson, Secretary of the Treasury Hamilton, Secretary of War Knox, U.S. Senator Robert Morris of Pennsylvania, New York Governor George Clinton and Federal Treaty Commissioner Timothy Pickering. This largely behind-the-scenes struggle proved to be as bizarre as any in the federal republic's first years.

The trouble started in 1790, when "the richest man in the United States," the daring financier Robert Morris, decided to see what private profit he could extract from the snarled land affairs of western New York State. Disturbed circumstances with a political dimension were always of interest to him because of his great political influence. Both Morris and nearly everyone else in the United States were aware that the nation owed Morris a huge debt of gratitude for his services as Continental Congress Superintendent of Finance during the Revolutionary War. Unfortunately, Morris also expected the country to repay him in more material ways.

At the very time President Washington and his chosen representative Timothy Pickering were trying to mollify Seneca anxieties, Morris was tantalized by the prospect of profiting from Seneca distress. Nor was Morris discouraged by President Washington's statement on December

Hutchins Report – Chapter Five

29, 1790, that the Senecas' remaining land rights would be secured to them by the strongest possible federal guarantees. "Here then is the security for the remainder of your lands," Washington had told Cornplanter. "No State nor person can purchase your lands, unless at some public treaty held under the authority of the United States. The general Government will...protect you in all your just rights."¹ Robert Morris seems to have taken this assurance as a personal challenge. So a Senate-approved federal treaty would be required to extinguish the Senecas' "Indian Title"? Who better than Senator Morris to elicit the Senate's consent to a federal treaty? As for Presidential approval, wasn't the President his tenant? When the U.S. capital was moved in 1790 from New York City to Philadelphia, and the Washingtons needed a place to stay, Morris offered to rent them his own stately mansion in the center of town. This offer wasn't refused, and Morris expected his desire to extinguish Seneca "Indian Title" for his private enrichment would prove equally irresistible.

On November 28, 1790, Morris acquired from Nathaniel Gorham and Oliver Phelps about 1,300,000 acres of land on which Seneca "Indian Title" had been extinguished by Gorham and Phelps at the Massachusetts-supervised Treaty of Buffalo Creek on July 8, 1788. On February 15, 1791, Morris's agent in London (William Temple Franklin, a grandson of Benjamin Franklin) sold to the Earl of Bath and others approximately one million acres of this

¹ Fitzpatrick 31:180.

Hutchins Report – Chapter Five

just- acquired tract. Next, in a separate transaction on March 5, 1791, Massachusetts sold to Morris's agent Samuel Ogden fee title to approximately four million acres of land located west of the land sold by Gorham and Phelps to Morris the previous year, land which was still occupied by the Senecas, and where they still retained aboriginal "Indian Title." Thus almost simultaneously Morris sold in England most of the unencumbered rights he had acquired from Gorham and Phelps and acquired new encumbered rights from Massachusetts. The rights Morris sold to the Earl of Bath were clouded by the continuing protests of the Senecas to the way their aboriginal "Indian Title" had been extinguished, and about the amount of money they claimed they were still owed. The new land rights Morris acquired were even more problematic, since Seneca resistance to another extinguishment of "Indian Title" could be expected to be intense. And this time, as the President had personally assured them, the Senecas would have the benefit of new, tougher ground rules established under the Constitution by the 1790 Indian Trade and Intercourse Act.

In bargaining with Gorham and Phelps in the summer and fall of 1790, Senator Morris cleverly argued that because of the uproar surrounding the 1788 Treaty of Buffalo Creek, the value of the land rights they were trying to sell had plummeted. In bargaining with Massachusetts in the early months of 1791, Morris similarly pointed to the 1789 Constitution and the 1790 Indian Trade and Intercourse Act and the President's assurances to the Senecas to argue that the Seneca preemption rights Massachusetts was trying to sell were now far less valuable. Prior to 1789, only Massachusetts had regulated sale of these rights, so someone interested in profiting from them needed only political clout in Massachusetts, which Phelps and

Hutchins Report – Chapter Five

Gorham possessed. National political clout would now be needed to oust the Senecas from their remaining lands, and President Washington had personally promised the Senecas that the federal government would protect their “just rights.” Would anyone other than Morris himself be interested in paying money to acquire from Massachusetts the right to extinguish the Senecas’ “Indian Title” when it seemed probable that the Senecas would never agree to any further extinguishments? “I am now pretty well convinced,” boasted Morris on January 20, 1791, “that nobody can surmount the obstacles which will occur in this business, so well as we can....I deem my own assistance as essentially necessary.”² Morris did not fear the “obstacles” posed by the Constitution and the Indian Trade and Intercourse Act---or the ire of his tenant, President Washington.

Having driven a hard bargain with Massachusetts on the premise that no one other than himself would be willing to pay anything for fee title to Seneca-occupied land, Morris then turned around and lobbied hard with the federal government to enable him to realize a quick profit by convening a federal treaty to remove the Seneca “encumbrance” that prevented him from developing these lands. Unfortunately for Morris, President Washington and Secretary of State Jefferson were adamantly opposed to pressuring the Senecas. Quite apart from the matter of the President’s still-fresh assurances of federal protection, there was also the danger that if angered the Senecas would join forces with hostile British-backed tribes of the Ohio region.

The first news reports of Senator Morris’s March 5th acquisition of fee title to Seneca-occupied lands provoked Jefferson to express strong disapproval. On March 27, 1791, Jefferson

² Boyd 20:126.

wrote Washington, then at Mount Vernon,

You know of Mr. R. Morris's purchase of Gorham and Phelps of 1,300,000 acres ...at 5d. an acre. It is said that he has sold 1,200,000 acres of these in Europe thro' the agency of W. [William Temple] Franklin, who it seems went on this business conjointly with that of printing his grandfather's [Benjamin Franklin's] works. Mr. Morris, under the name of Ogden, and perhaps in partnership with him has bought the residue of the lands held in the same country by Massachusetts, for 100,000 pounds. The Indian title of the former purchase has been extinguished by Gorham, but that of the latter is not. Perhaps it cannot be. In that case a similarity of interest will produce an alliance with the Yazoo companies. Perhaps a sale might be made in Europe to purchasers ignorant of the Indian right.³

A northern repetition of the south's notorious Yazoo frauds would be a national disaster. With biting sarcasm, Jefferson described Morris as a charlatan who might be prepared to unload potentially worthless land rights on unsuspecting Europeans unfamiliar with the subtleties of aboriginal "Indian right." And Jefferson's poignantly brief sentence ("Perhaps it cannot be.") reveals the seriousness with which he approached enforcement of the Indian Trade and Intercourse Act. If the Senecas truly didn't want to sell their aboriginal homelands, they had every right to make this decision, and to expect the federal government to protect them indefinitely in the exercise of their right not to sell.

Agreeing with Jefferson that Morris's machinations could do great harm, Washington on April 1, 1791, replied sympathetically that, "It will be fortunate for the American public if private Speculations in the lands, still claimed by the Aborigines, do not aggravate those

³ Fitzpatrick 31:261.

differences,

which policy, humanity, and justice concur to deprecate.”⁴

A sharply contrasting letter to the President written on March 27, the same day as Jefferson’s, by Secretary of the Treasury Hamilton made no direct reference to his friend Senator Morris. But in an apparent effort to avoid any imputation that he was keeping the President in the dark, Hamilton relayed a report that referred to rumors about nameless land speculators. Hamilton began by remarking that “Nothing new has occurred in my Department worth mentioning.” He then offered Washington an “extract” from a letter he had received from Rufus King, U.S. Senator from New York, reporting the contents of a letter King had “seen” from John Tayler of Albany, one of New York State’s Indian Commissioners. Senator King had written Hamilton that

I have seen a letter from Mr. John Taylor of Albany which has created some uneasiness on account of our frontier settlements. He says, “there is great reason to apprehend danger from the Indians in this quarter;” but does not mention, nor have I been able to learn the grounds of this apprehension. You are sensible that almost every person here is interested in our Western lands; their value depends upon the settlement of the frontiers, these settlements depend on Peace with the Indians, and indeed the bare possibility of a war with the six Nations, would break up our whole frontier. It is from this state of things that the war with the Wabash Indians is so much disrelished here. The [New York] Legislature have authorised the Governor to draw Money from the Treasury and to take such measures as he may judge suitable to *preserve the good will* of the neighbouring Indians. I have said, and I presume it will be the case, that all prudent steps will be pursued to keep the six Nations quiet.⁵

On March 24, 1791, the New York Legislature had authorized Governor Clinton to spend

⁴ Fitzpatrick 31:261

⁵ Twohig 8:10-12.

Hutchins Report – Chapter Five

up to one thousand pounds “in such manner as he shall judge most expedient to prevent any incursions of hostile Indians into this State.”⁶ How and where this money was to be spent was left to the Governor’s discretion, but Senator King assumed it would be spent in an attempt to solidify the friendship of “neighbouring” Senecas living within the State’s claimed boundaries but in British- controlled territory.

Three days after his April 1st reply to Jefferson, the President was still upset about Morris when he wrote Hamilton that,

Every expedient, as I believe you know, is in operation to avert a War with the hostile Indian tribes, and to keep those who are in treaty with us in good temper; but I am nearly thoroughly convinced that neither will be effected, or, if effected, will be of short duration while land jobbing and the disorderly conduct of our borderers is suffered with impunity; and whilst the States individually are omitting no occasion to interfere in matters which belong to the general Government.

It is not more than four or five months since the Six Nations or part of them were assured (through the medium of Colonel Pickering) that thence forward they would be spoken to by the Government of the United States *only* and the same thing was repeated in strong terms to the Cornplanter at Philadelphia afterwards. Now, as appears by the extract from Mr. King, the Legislature of New York are going into some negotiations with these very people. What must this evince to them? Why, that we pursue no system, and that our declarations are not to be regard[ed]. To sum the whole up in a few words: the interference of States, and the speculations of Individuals will be the bane of all our public measures.⁷

Seizing the opening Washington’s letter offered, Hamilton replied on April 10, forcefully denouncing such state meddling. “It is to be lamented,” Hamilton observed,

⁶ *Laws of the State of New York*, 3:252, March 24, 1791. Cited in Harold Syrett, ed., *The Papers of Alexander Hamilton*, New York: Columbia University Press, 1965, 8:213.

⁷ Fitzpatrick 31:273.

that our system is such as still to leave the public peace of the Union at the mercy of each State government. This is not only the case as it regards direct interferences, but as it regards the inability of the national government, in many particulars, to take those direct measures for carrying into execution its views and engagements which exigencies require. For example: a party comes from a county of Virginia into Pennsylvania, and wantonly murders some friendly Indians. The national government, instead of having power to apprehend the murderers and bring them to justice, is obliged to make a representation to that of Virginia. And whether the murderers shall be brought to justice at all, must depend upon the particular policy and energy and good disposition of two State governments, and the efficacy of the provisions of their respective laws; and the security of other States, and the money of all, are at the discretion of one. These things require a remedy.

Hamilton's words recalled Colonel Pickering's outburst of the previous fall, when Pennsylvania's acquittal of an obviously guilty murderer of two peaceable chiefs left Pickering groping in vain for a way to defend the efficacy of the federal executive. Both Hamilton and Pickering would have preferred "exclusive" federal control of all aspects of relations with frontier tribes.

In his April 10th reply to Washington applauding the President's criticism of the New York Legislature's apparent intention to interfere in frontier tribal affairs, Hamilton did not similarly echo the President's censure of "land jobbing" and "the speculations of Individuals" such as Morris.⁸ Unlike Washington and Jefferson who wanted to postpone such distractions at least until peace had been established with western tribes, Hamilton was at this very time holding consultations with Morris about his latest Seneca investment and how it could be made quickly profitable.

⁸ Fitzpatrick 31:273-74.

A “Six Nations” Treaty Conference Authorized in the President’s Absence.

Washington’s departure on March 21 from Philadelphia for Mount Vernon, to prepare for a tour of the southern states, had led Morris to step up pressure on his friends in the federal executive, notably Hamilton and Secretary of War Knox. In response to Morris’s never-subtle pressure, Hamilton and Knox seem to have concerted a plan to circumvent Washington and Jefferson and advance Morris’s interests surreptitiously, by convening a federal treaty conference under false pretenses. The real purpose was to be a Robert Morris land deal, but this would not be mentioned until the treaty conference had been duly authorized, “with the Indian war in the West providing cover for schemes of land speculation in the East.”⁹

This charge made by Julian Boyd, long-time editor of the *Thomas Jefferson Papers*, is very serious. If true, it would have been grounds for the immediate dismissal of both Knox and Hamilton. To substantiate his charge, Boyd has assembled a great deal of evidence indicating that Knox and Hamilton in the weeks following Morris’s acquisition of Seneca fee title on March 5, 1791, did attempt to deceive Jefferson and Washington.¹⁰ Certainly the ostensible reasons for convening the disastrous 1791 treaty conference with the “Six Nations” were feeble and vague. In contrast to the situation in 1790, when a meeting had been demanded by the Geneseo Senecas under threat of retaliation, no credible reason was ever offered for calling the expensive, counterproductive 1791 conference. Only pressure from Morris seems an adequate

⁹ Boyd 20:121.

¹⁰ For full presentation of Boyd’s theory, see his “Editorial Note,” Boyd 20:104-41.

explanation.

The procedure used to authorize this conference was highly unusual. On April 4, as he prepared to leave Mount Vernon for a “progress” through the southern states, Washington had sent written instructions to the Secretaries of State, Treasury and War that during the approximately six weeks of his tour, they could collectively make decisions in his name on “any serious and important cases” if these “legally and properly” did not necessitate formal Presidential involvement. When in town, the legally inessential Vice President was also to be consulted as a courtesy, before the three Secretaries made “any serious and important” administrative decision.¹¹ On April 11, almost immediately after receiving this Presidential directive, Knox sought Cabinet approval to convene the “Six Nations.” Boyd boldly labels this April 11th session a “meeting of the Cabinet with the hidden object of assisting Robert Morris to make a purchase of the Indian lands.”¹²

One day prior to this crucial Cabinet meeting---precluding the possibility of a Presidential reply before a decision was made---Knox had written the absent President that incidents of frontier violence in the vicinity of Pittsburgh indicated that the Delawares and Wyandots had shifted from neutrality to active collaboration with hostile, British-backed tribes in the midwest. “But what is still more disagreeable,” continued Knox, “it is to be apprehended that the Senekas mainly may be involved in the same predicament.” Like the Delawares and

¹¹ Boyd 20:141-42.

¹² Boyd 20:147.

Hutchins Report – Chapter Five

Wyandots, the Senecas resided between U.S. settlements and openly hostile tribes, and possibly might also abandon their neutrality, especially if they began to be dealt with by U.S. citizens as enemies and felt they had no choice. On his recent return from Philadelphia laden with President Washington's gifts, Cornplanter and his party, though under federal military escort, had been set upon as they traveled up the Allegheny River, and all their gifts had been plundered. In his April 10th letter to Washington, Knox expressed fear that even the stalwartly pro-U.S. Cornplanter might now be driven to take up arms against the United States, and suggested that

Every exertion must be made to prevent the six Nations from joining the Western Indians. The post at French Creek must be strengthened, and perhaps a party sent to protect the Cornplanter's settlements from the fang of the Whites.

Providing some federal protection from marauding U.S. citizens for Cornplanter's

Senecas made sense, and was clearly an action that could be appropriately taken in the

President's absence. But Knox then moved to an entirely different level.

Affairs being so critical with the six Nations, I have judged it adviseable to assemble them as soon as possible, in order to brighten the Chain of friendship and to prevent all jealousies. I have accordingly desired Colonel Pickering, who may be depended upon to invite them to a Meeting at some convenient place at an early day and that in the mean time, that he should repair to this City for particular Orders. I shall lay this subject before the Vice-President and the other heads of departments tomorrow, for their approbation.¹³

All Senecas were caught between openly hostile midwestern tribes and restive U.S. citizens. A responsible way to address this danger would have been to send a federal emissary

¹³ Twohig 8:80-81.

Hutchins Report – Chapter Five

(not a federal *treaty* commissioner) to reassure vulnerable Senecas. *And this had been done on March 21, shortly before President Washington left Philadelphia.* Just as Washington in September, 1790 had sent Colonel Pickering to meet with the families of two murdered Genesee Senecas, so Colonel Thomas Procter had been instructed in March of 1791 to confer with the Buffalo Creek Senecas, and then to proceed to contact hostile tribes in the midwest. Since Procter's mission was already underway, what credible purpose other than a Robert Morris land transaction could have justified convening the entire "Six Nations"? Rather than damp down fears, an expensive, high-visibility *treaty* conference to "brighten the Chain of friendship" with a political entity that New York State hoped would never be heard from again seemed all too likely to infuriate New York State, rouse Iroquois energies and aggravate frontier tensions. Ironically, the Cabinet member best acquainted with New York State's hostility to reviving the "Six Nations" was Morris's friend Hamilton.

After minimal discussion on April 11, Hamilton and Jefferson approved Knox's plan, with a budget of \$2,000. On April 17, Jefferson described what happened, in a letter to Washington principally devoted to other matters. "The Vice-President, Secretary of the Treasury and War and myself met on the 11th," Jefferson began. After reporting what he considered more important news, Jefferson then mentioned that

General Knox expressed an apprehension that the Six Nations might be induced to join our enemies; there being some suspicious circumstances; and he wished to send Colonel Pickering to confirm them in their neutrality. This he observed would occasion an expence of about 2000 dollars, as the Indians were never to be met empty-handed. We thought the mission adviseable. As to myself, I hope we shall give the Indians a thorough drubbing this summer, and I should think it better afterwards to take up the plan of liberal and repeated presents to them. This

Hutchins Report – Chapter Five

would be much the cheapest in the end, and would save all the blood which is now spilt; in time too it would produce a spirit of peace and friendship between us. The expence of a single expedition would last very long for presents.¹⁴

Jefferson here indicated that while he had gone along with the majority on April 11, he personally thought convening the “Six Nations” prior to ending hostilities in the midwest was a poor idea. Hamilton’s support for Knox’s “Six Nations” proposal would have left Jefferson with no option, unless he chose to make an issue of the matter.¹⁵ Jefferson decided not to do this, and simply voiced his disdain to Washington privately.

In September of 1790, Washington had briefly outlined his thinking on “Six Nations” issues to Colonel Pickering. Two U.S. peace treaties had already been signed with the “Six Nations,” Washington explained, so the Tioga conference didn’t need to be considered a *treaty*. Besides, Pickering would be meeting with only a small number of Senecas, who were just one of the “Six Nations.” Washington was emphatic when instructing Pickering in September of 1790, and again in writing to Hamilton in the spring of 1791, that the Senecas were a federal responsibility and New York State should not have independent dealings with them, even though they occupied territory located within New York State’s bounds. On questions concerning the extent to which the federal government should become involved with the other five members of

¹⁴ Boyd 20:144-45.

¹⁵ Boyd does not implicate Vice President John Adams, who may have known nothing of what had transpired behind the scenes. But Adams’ son-in-law was at this time a business associate of Morris, and Adams also would have been reluctant to resist Morris. See Twohig 8:255.

Hutchins Report – Chapter Five

the pre-Revolutionary War “Six Nations,” Washington was circumspect. Issues needing clarification included New York’s claim of ordinary State jurisdiction over the Oneidas, Onondagas and Cayugas, whether the British would soon withdraw their troops from Fort Niagara, and whether the 1784 and 1789 U.S. treaties with the “Six Nations” would have to be revised once the unsurveyed New York State-Pennsylvania line was demarcated. Washington saw merit in taking on problems only when there was a good likelihood of making progress toward their solution. From Washington’s perspective, Knox’s decision to convene a *treaty* conference with all “Six Nations” must have seemed at a minimum both ill-timed in relation to Colonel Procter’s uncompleted mission and clumsily handled because Governor Clinton, who considered the “Six Nations” Confederacy defunct and whose State had much at stake, was not consulted in advance.

In a letter to Governor Clinton dated April 12th, Secretary Knox reported almost casually that, “As it is to be apprehended that the Six Nations may be brought to act against us, it has been conceived important to assemble them together, particularly the Senecas, at as early a period as possible, in order to brighten the chain, and to remove all causes of discontent.” For this reason, Knox explained, Colonel Pickering had been instructed “to invite the Six Nations generally, to a meeting.” Knox’s letter was far from informative, and his vague use of the passive voice left unclear how the decision “to invite the Six Nations generally” had been made.¹⁶

Clinton’s April 27th reply indicated that he had studied Knox’s letter with just these

questions in mind. He observed caustically that “by the tenor of the communication therein contained, I am led to conclude, that the President has given you discretionary power in regard of the objects upon which you have been pleased to confer with me.” Clinton not only expressed displeasure with what the Cabinet had decided but implied that the President would not have approved had he been consulted. “I observe, with some regret,” Clinton continued,

that the measure of attempting a convention of the whole six nations, hath been resolved and acted upon. It cannot be unknown to you, that those nations are at present disunited by private animosities, that there subsists not among them, mutual intercourse and confidence, sufficient to lead to a general combination, or to effect (without the interposition of the agents of the United States) a general congress of those nations, even for the purpose of deliberation; that this disunion produces impotency and secures inaction, and that, if we should revive their importance, by renewing their union, we may give power and vigor, which we cannot with certainty direct, and over which we shall, with much trouble and expense, have an uncertain control. But, having heretofore communicated to the President my sentiments upon the policy of that measure, I shall not now further obtrude them upon you.¹⁷

These were withering words, and well justified, although how and when Clinton had “communicated to the President” his sentiments are unknown.

Beginning as far back as 1785, Governor Clinton had developed a nation-by-nation approach to Iroquois groups within his State, and implemented it in three treaties with the Oneidas, Onondagas and Cayugas negotiated in the months prior to the inception of the federal Constitution. Having thus announced and implemented over a course of several years a legal strategy premised on ending recognition of the political existence of the historic “Six Nations”

¹⁶ ASPIA 1:167.

¹⁷ ASPIA 1:167.

Hutchins Report – Chapter Five

Confederacy, and having told President Washington what he was doing and why, Clinton had been astonished to receive Secretary Knox's April 12th letter, and immediately told Knox as much. Knox received Clinton's letter of objection on May 5, only three days after Federal Treaty Commissioner Pickering's Instructions had been issued, at which point the conference could easily have been canceled. Instead, Knox replied to Clinton on May 11 that he was "sorry that you do not approve the convention of the Six Nations." In defense of his decision to convene all six, Knox explained that, "Although the Senecas were the principal object of the meeting, that tribe constituting the main body of the Six Nations resident within the general limits of the United States, yet it was conceived that it would have been impolitic to omit inviting the other tribes, eastward of the Senecas, to the meeting." Offering no explanation of why he had failed to consult with Clinton and disregarding his warning of dire consequences, again Knox hid behind the passive voice.¹⁸

Knox may well have felt bound by a secret promise to Morris. In any case, whether or not the conference was called in the first place to accommodate Morris's avarice, once the conference had been decided on, Morris set in motion plans to take advantage of it for his personal profit, notwithstanding the possible effect this might have on the tribal war then in progress. By May, Morris was openly moving to add a land sale to the planned treaty's agenda, sabotaging any potential goodwill the treaty might have fostered. Morris knew that under terms of the 1790 Indian Trade and Intercourse Act only a *treaty* conference could validate extinguishment of the Senecas' "Indian Title" occupancy rights on "his" land. Morris moreover

¹⁸ ASPIA 1:168.

desired a treaty conference *with all* “Six Nations” because a land sale negotiated with the Senecas alone was sure to leave problems. Elements of other Iroquois nations now also lived on ancestral Seneca territory, most having fled there in 1779 when General Washington ordered their home territories invaded. Moreover, the 1784 and 1789 U.S. treaties and the 1788 Massachusetts-supervised Treaty of Buffalo Creek, all three of which had concerned the extinguishment of aboriginal “Indian Title,” had all been negotiated with the “Six Nations.” As Congress’s Secretary at War since 1787, Knox had supervised the 1789 Continental Congress Treaty with the “Six Nations” and knew that the “Six Nations” was the entity that had negotiated land rights with the United States in 1784 and 1789, as well as with representatives of Massachusetts in 1788.¹⁹ While in private practice as a lawyer in New York, Alexander Hamilton had been employed to help resolve the State’s border and jurisdictional problems, and so would also have known that convening all “Six Nations” was the then-accepted way to extinguish aboriginal Seneca “Indian Title” occupancy rights.²⁰

Though circumstantial, Julian Boyd’s argument is compelling that the Cabinet’s April 11th decision was a triumph for a cabal to deceive Washington and Jefferson. On the other hand,

¹⁹ For Knox’s views on the “Six Nations” and the 1784, 1788 and 1789 Treaties, see his letter to Washington dated Dec 27, 1790, in Twohig 7:121-27.

²⁰ Regarding Hamilton’s work on New York State border issues, see Julius Goebel, Jr., ed., *The Law Practice of Alexander Hamilton, Documents and Commentary*, New York, 164, volume one, chapter four.

while such a cabal might get a “Six Nations” treaty session called under false pretenses, it could not expect to proceed in secret to the extinguishment of Seneca land rights. The best that Morris, Hamilton and Knox could have hoped for was approval of a “Six Nations” conference, ostensibly for war-and-peace-related reasons, leaving open the possibility that if circumstances became conducive to a land sale by the time the treaty session took place, Seneca “Indian Title” extinguishment might be quickly added to the public agenda. Whatever the truth, the short-run outcome was not affected.

Pickering’s Re-Hiring.

Knox may have reasoned that recruiting Timothy Pickering to preside at this “Six Nations” treaty conference would mollify Washington if the President became upset upon hearing about what had been decided in his absence. Having been earlier selected by Washington to confer with the Geneseo Senecas, and then praised by Washington for the success of the Tioga conference, Pickering seemed a politic choice. And Pickering himself was more than available.

Pickering had spent the months between the conclusion of his first Iroquois assignment on December 31, 1790, and his May, 1791, acceptance of a second Iroquois assignment participating with Washington, Knox and Hamilton in a solemn hiring minuet. This began almost immediately, with a letter from Pickering to Washington dated January 8, 1791, outlining some proposals that had emerged from his reflections following the Tioga conference.

In the [August 7, 1790] treaty with the Creek Indians, I observe provision is made for furnishing them with domestic animals and instruments of husbandry, with a view to change those people from hunters to husbandmen. If it is the wish of the

Hutchins Report – Chapter Five

United States (and the clause just mentioned in the treaty with the Creeks warrants the supposition) thus to instruct the Indians in the most important of all arts, the art of husbandry, and to reclaim them from a savage to a civil state, I am disposed to believe that the wish is founded on practicable ideas. But no means hitherto used appear to me to have been properly calculated to produce that effect. It is certain they have not succeeded. And hence many, perhaps most people, think the idea of civilizing the Indians perfectly Utopian.

As Pickering acknowledged, the ideas in his January 8th letter were not original. They had been incorporated into the Creek Treaty, and both Washington and Knox had on more than one occasion endorsed federal promotion of agriculture as a means of making tribes more sedentary, and less “vagrant” (to use Hamilton’s term)²¹ in their mode of living. Pickering’s January 8th endorsement of this Washington-Knox program was his way of indicating that he too was now concerned about these issues, to which he had devoted no thought prior to Tioga. “Indeed, till then,” he admitted to Washington, “I had never had the subject in contemplation.”

What Pickering imagined might be new were the particulars of his plan. “Appoint some benevolent man, whose prudence equals his benevolence,” Pickering hypothesized, and

open in one of their towns a school of plain learning and husbandry. The director, or superintendent, should have a discreet schoolmaster to teach reading, writing and arithmetic, and two or three young men who are complete farmers, to teach the art of husbandry to such Indian boys and youths as should be found willing to learn, and whose parents should approve of the plan. If the Indians should ever learn and practice the arts of civil life (and I cannot admit the idea that their minds are cast in a mould so different from that of the rest of their species as to be incapable of cultivation), I am inclined to think a beginning must be made nearly in the manner here suggested....Perhaps nearly the whole charge might eventually be defrayed by the Indians, by voluntary grants of land, in such manner as the President of the United States should approve. The experiment being once made, and found successful, might be repeated among all the Indian tribes; and as soon as husbandry shall, with general approbation, be established in a nation, they will find their extensive hunting grounds unnecessary, and will then readily listen to a

²¹ Boyd 20:111.

proposition to sell a part of them, for the purpose of procuring for every family domestic animals and instruments of husbandry. The idea here suggested is interesting to humanity; it is peculiarly interesting to the United States. Even in a pecuniary view, it is important. A single campaign would cost more than the entire establishment of these schools of humanity among all the Indian nations.... To me the plan appears not difficult to execute. And if it would be the surest and the cheapest method of preserving the friendship of the Indians (as I conceive it would), it may merit public attention. Its expediency struck me so forcibly, I could not forbear submitting it to your inspection.²²

Washington may be excused for suspecting that the main purpose of Pickering's January 8, 1791, letter was to recommend himself as the administrator of the program he proposed, which he had described as "not difficult to execute." Washington in fact by return mail asked Pickering to be deputy superintendent for the "Senekas and the six Nations," a post that Knox had recommended be created in a December 27, 1790, letter to Washington. Knox had proposed that "this deputy ought to reside among or very near the Senekas" and report administratively to Governor St. Clair of the federal Northwest Territory. Once appointed, this deputy could become the person to whom "the Senekas and the six Nations...should make their addresses in future."²³

Pickering declined this offer on January 15, explaining that though attracted by the assignment, he could not afford to accept, since it would entail resigning the various local Pennsylvania positions he then held. But he made clear that he was available for any part-time federal employment that could be combined with retention of his Pennsylvania positions, or for a full-time federal job with a salary sufficient to justify resigning these positions.

²² Upham 2:469-72.

²³ Twohig 7:126 and 461, n.1. The post of superintendent of all northern Indians was held by the Governor of the federal Northwest Territory, a fact that Pickering acknowledged learning for the first time in January of 1791, and ignorance of which had led him into unintentional error at Tioga the previous fall. See Upham 2:473-74

Hutchins Report – Chapter Five

On January 20, Washington thanked Pickering for outlining his

ideas with respect to introducing the art of Husbandry and civilization among the Indians. I confess, that your plan or something like it, strikes me as the most probable means of effecting this desirable end...Humanity and good policy must make it the wish of every good citizen of the United States, that Husbandry, and consequently civilization should be introduced among the Indians. So strongly am I impressed with the beneficial effects which our Country would receive from such a thing, that I shall always take a singular pleasure in promoting, as far as may be in my power, every measure which may tend to ensure it.

Washington also expressed regret that Pickering had declined his offer of appointment

to superintend the Northern Indians, as I am persuaded that nothing would have been wanting on your part to attach them to the United States, and to cultivate that spirit for civilization which now begins to dawn among them. Whoever undertakes this business must be actuated by more enlarged views than his individual interest, or he can never accomplish the wished for end.²⁴

Too polite to inform Pickering that his ideas were not really new, Washington instead commended Pickering's high sense of public spirit and zeal for tribal improvement. As Washington himself implied, the federal government's ability to promote tribal betterment was constrained not by a lack of ideas such as those Pickering sketched but rather by the scarcity of properly motivated persons. Washington candidly acknowledged that if Pickering refused his offer, the post of deputy superintendent to the "Northern Indians" was likely to remain unfilled for the foreseeable future.

A month later, on February 25, 1791, Knox with the President's approval offered Pickering the position of Quartermaster General for the Army's upcoming campaign against midwestern tribes. On February 28, Pickering also declined this second offer to serve under

²⁴Fitzpatrick 31:199-200.

Hutchins Report – Chapter Five

Governor (and General) Arthur St. Clair.²⁵ Then on March 5, Robert Morris acquired fee title to four million acres of aboriginal Seneca land in western New York State that would remain unusable until the Senecas agreed to extinguishment of their occupancy rights at a formally sanctioned U.S. treaty. On March 21, Washington left Philadelphia. On April 9, Knox wrote Pickering inquiring if he would be interested in presiding at a formally sanctioned U.S. treaty with the “Six Nations.” On the same day, Knox sent a message to Pickering through a mutual friend indicating that certain aspects of the conference could only be explained to him confidentially. Pickering quickly traveled to Philadelphia, and spent two weeks conferring with Knox and others, including Morris’s business associate Oliver Phelps.²⁶

During his late April meetings in Philadelphia, Pickering’s thoughts never wandered for long from his hopes for regular federal employment. Immediately after reaching agreement with Knox regarding the details of his upcoming treaty session with the “Six Nations,” Pickering on May 2 wrote President Washington yet another letter about yet another possible federal job. “Of the measures pursuing by general Knox, relative to Indian affairs, he doubtless makes to you the necessary communications,” Pickering began tactfully.

In those communications, he may, perhaps, have mentioned my being here, preparatory to my undertaking another mission to the Indians of the Six Nations, for the purpose of confirming the peace and friendship subsisting between them and the United States, and as a means of preventing their being seduced to engage

²⁵ Twohig 7:461-62; Boyd 20:124. Pickering’s February 28, 1791, letter to Knox, TPP 35.

²⁶ Boyd 20:123-24.

Hutchins Report – Chapter Five

with the Western Indians, in the war against us.

Upon my arrival, I heard of the vacancy of the office of Comptroller of the Treasury; & also learned that there were divers applicants who wished to succeed to it. For my own part, as I had already made known to you my desire of obtaining a permanent office in the general government, I had concluded not to trouble you with a fresh application at this time. But upon farther reflection, it seemed proper to address you. Because among many applications pointing to the particular office of comptroller, a former general application might not come into view; because if there be any office in the treasury department to which I am competent, I conceive it to be this; and because, being now at the seat of government, not to apply might be construed as a relinquishment of all pretensions to it.

A general knowledge of public businessCa reasonable share of discernment ---industry---cool deliberation---integrity & strict impartiality, are the great requisites of the office. Whether, Sir, I have or have not, just pretensions to any or all of those qualities, you, who have long known me, can accurately determine: to you alone, therefore, I make my suit; without asking the patronage [or]

recommendation of any man. Such aid cannot be necessary, nor proper, nor decent: for no patronage, no recommendation, could make you *better acquainted with my character*; and that is the only ground on which a recommendation could pertinently be offered. For mere patronage will never determine appointments to office, while you preside in the government of the United States.²⁷

Pickering here manifested growing confidence that he was valued and respected at the highest levels of the federal government. Regular employment in Hamilton's Treasury Department seemed a logical next step. Washington admired his character, and Hamilton his zeal.

Pickering's formal Instructions for his assignment as Federal Treaty Commissioner to the "Six Nations" were signed by Knox and dated May 2, 1791, the same day on which Pickering had written to the President requesting appointment as Comptroller in Hamilton's Treasury

Department. Knox began by sounding the theme of national security. After asserting that the “great object of the proposed meeting” was to “impress on the minds of the Indians that their interest and happiness depend upon the protection and friendship of the United States, and to conciliate their affections” Knox then explicitly affirmed that

You will, also, inform the Indians how desirous the President of the United States is, that the Indians should have imparted to them the blessings of husbandry, and the arts, and of his willingness to receive the young sons of some of their principal chiefs, for the two-fold purpose of teaching them to read and write, and to instruct them fully in the arts of husbandry.²⁸

Pickering was thus formally instructed to promote not only peace but “husbandry” which was understood by all federal officials as a precursor to the sale of “surplus” aboriginal hunting grounds.

Preparing to Negotiate.

Robert Morris had plans to attend the “Six Nations” treaty session (which could be for only one purpose) and urged Gorham and Phelps to come as well, so that all extant Seneca land questions could be resolved once and for all. Morris also instructed an agent, William Ewing, to precede him and prepare his way. Ewing raced to Buffalo Creek and tried to convince the Senecas that he was there on officially sanctioned business. He announced that he represented “the Hon. Robert Morris, whom he called the second

²⁷ Twohig 8:150.

²⁸ ASPIA 1:165-66.

Hutchins Report – Chapter Five

greatest man in the Union” and “convened a council” on April 26 at which he informed

those of the Six Nations present, that the preemptive right to the lands in this country, as belonging to the State of Massachusetts, were now the property of the said Robert Morris, whensoever the Six Nations of Indians were disposed to sell any part of the same; that, the better to authenticate this business that he had to perform, he produced his instructions, under the hands and seals of the Hon. Robert Morris and the Hon. [Samuel] Ogden, both of the State of Pennsylvania, adding, that the chain of friendship now stretched between the said gentlemen and the Six Nations, the centre of which was to be supported by him; that in consequence thereof, he desired their permission to traverse the several courses of the lands granted...to the said State of Massachusetts.²⁹

The Senecas were profoundly alarmed by Ewing’s unexpected appearance with the unwelcome proposal that they sell most if not all of their remaining aboriginal hunting grounds in the midst of an ongoing war crisis, and rushed to consult British officials at Fort Niagara. The goodwill generated by Pickering’s efforts at Tioga the preceding fall vanished in an instant, and the British happily seized the occasion to bolster their Seneca ties.

The day after this Ewing-generated crisis broke, Washington’s original emissary to the Senecas, Colonel Thomas Procter, finally arrived at Buffalo Creek. A no-nonsense military man, who had helped lead the 1779 invasion of Iroquois territory that had won for General Washington his Iroquois name of “Town-Destroyer,” Procter had set out from Philadelphia on March 12 on his pre-Morris, pre-“Six Nations” Treaty assignment. Procter had been instructed first to placate the Senecas and then to warn midwestern tribes of dire consequences if they persisted in opposing U.S. authority. At Wilkes-Barre on March 19, Procter had paid a courtesy

²⁹ ASPIA 1:156.

Hutchins Report – Chapter Five

call on Colonel Pickering, identified by Procter as the “prothonotary of the county.”³⁰ At this time, neither man anticipated that Pickering would soon be convening a “Six Nations” gathering that would sabotage Procter’s more modestly framed mission.

Accompanying Colonel Procter as far as Cornplanter’s settlement on the upper Allegheny River was Captain Waterman Baldwin, who had been hired “to act as instructor of the Indian youth, as also a director in the mode and management of agriculture for the use and benefit of the Indians.” Baldwin was returning a favor; during the Revolutionary War he had been held captive by Cornplanter “until legally exchanged” after the War. Baldwin grew to admire his captor, who treated him “with remarkable tenderness,” and was happily returning to live and work in Cornplanter’s community, assisting in the promotion of tribal “husbandry.”³¹

Obligated to slosh through heavy spring rains and ford innumerable swollen streams, and also delayed by his stop at Cornplanter’s settlement, the unsuspecting Procter found to his amazement when he arrived at Buffalo Creek that William Ewing was already there promoting a sinister agenda not even whispered about before Procter left Philadelphia. Procter forced an immediate showdown with Ewing. On April 28, Procter recounted, in the presence of about one hundred fifty Iroquois,

Mr. Ewing began to open and continue his business, which he had introduced the day before; upon which, I rose to inform him that he must desist from going on any farther, as it was an interference with my mission, that was of the utmost consequence to the United States, and to the Indian nations in general; and that, as soon as the same was completed,

³⁰ASPIA 1:150.

³¹ ASPIA 1:150.

Hutchins Report – Chapter Five

agreeable to the purport of my coming here, that then I would lend him such assistance as was in my power, and through which I would evidence my respect for the gentlemen who sent him.³²

Ewing apparently made no reply, leaving Procter with the impression that his warning had sunk in. But on May 9,

about 5 o'clock, my interpreter came to inform me, that Mr. William Ewing had called the chiefs to his hut, (as was his custom, unknown to me, almost every afternoon) and that a council fire was lighted in the front of the same; that Fish Carrier, the Farmer's Brother, and several other chiefs, were present, consulting on the business I have before alluded to. It gave me some concern, that the imprudence of this young man had compelled me to come forward, to silence him; as I saw plainly, and received information also, that the Indians were not able to decide what purpose was intended, by sending two extraordinary messengers to them at one time; being led to believe, that the authority of each was nearly similar. I proceeded to the council fire, and in a short manner introduced my business to the chiefs, of what was the cause that brought me forward to interfere in the business of their council.

Upon this, I turned to Mr. Ewing, and charged him with having insidiously thrown obstructions in my way, and was one of the principal causes of my not having succeeded in the purpose of my message to the Six Nations. In consequence of which, I commanded him, in the presence of the chiefs, at his peril to proceed any farther, in either their public, or their private councils, until my mission was fully decided upon by the chiefs of the Six Nations; and should he attempt it after this caution, that I should be unpleasingly compelled to commit him to the first prison that could be come at within the United States, and

³² ASPIA 1:156.

Hutchins Report – Chapter Five

prosecute him, on the obvious reasons before recited.³³

Procter may have won this shouting match, but Ewing had succeeded in destroying Procter's mission, and Procter returned to Philadelphia defeated and disgusted.

Meanwhile Canandaigua's leading citizen General Israel Chapin, who had trade ties to the Senecas, had learned something of what Ewing was up to. On May 5, Chapin wrote Pickering, "I hope [neither] Mr. Morris nor any other person will endeavor to purchase any lands of the Indians at present: for it is my opinion it will be attended with very ill consequences."³⁴ Pickering forwarded this letter to Knox on May 12, adding that he had also heard from Captain Samuel Bowman, just arrived from Canandaigua, that "the Indians would not endure the idea of parting with any more of their lands." Pickering further advised Knox that he understood Morris had sent "one Ewing to endeavour to purchase lands of the Indians, or at least to feel their dispositions on that subject."³⁵

Ewing's presumptuous behavior hadn't helped his over-eager employer. Knox, Hamilton and Pickering evidently planned to pursue a vastly subtler course, which if successful might have generated a Seneca "request" for extinguishment of their aboriginal hunting ground rights as being in the Senecas' own best interests as future yeoman farmers. But Morris's intentions had been exposed in advance of Pickering's planned orations, and the Senecas served notice that they

³³ ASPIA 1:159.

³⁴ Boyd 20:128-29.

³⁵ Boyd 20:128-29.

Hutchins Report – Chapter Five

would not listen even to a preliminary presentation about the supposed benefits of “husbandry.”

Back in Philadelphia, Knox and Hamilton warned Morris that trying to extinguish the Senecas’ “Indian Title” that summer appeared not only futile but dangerous. Morris reluctantly acquiesced, and on June 13 Knox advised Pickering that “Mr. Morris will not attempt to purchase any lands at present.”³⁶ Morris himself wrote Pickering on June 12 that, “Upon a consultation with Colonel Hamilton and General Knox, I have agreed not to make any proposition to the Indians at this Treaty for the purchase of any part of their land, therefore nothing need to be said to them on that subject.”³⁷

Morris and his minion Ewing had aborted Colonel Procter’s honorable efforts to end the war in the midwest, and deeply antagonized the Senecas, to the benefit of the British. Simultaneously, Knox and his newly chosen Treaty Commissioner had upstaged Procter’s unpretentious conference at Buffalo Creek, and diverted Seneca attention toward Pickering’s grander-sounding conference.³⁸ But by the time Pickering’s massive, federally-subsidized “Six Nations” sessions finally began at Newtown (near modern-day Elmira, New York) on July 2, 1791, Morris had canceled his plans to attend, and the conference opened with no real U.S. agenda. The “Six Nations” on the other hand had plenty of items on *their* agenda.

³⁶ Boyd 20:129.

³⁷ Boyd 20:129.

³⁸ ASPIA 1:158.

Hutchins Report – Chapter Five