

affairs of the Company in that period, and will be the only Ogden mentioned herein. Other shareholders were Joseph Fellows of Geneva, representing the Troup heirs, and James Wadsworth of Genesee.

Among the Ogden manuscripts with the New York Historical Society is an estimate by James Wadsworth of the value of the reservations, made shortly before 1837. They were estimated at nearly two millions of dollars, and the Buffalo Creek Reservation represented nearly half the value.

Some time in the summer of 1837 four men secretly formed an association for the purpose of accomplishing a removal of the Senecas from their reservations for the benefit of the Ogden Land Company. The Company had only agreed to pay these men an amount said to have been about \$20,000 each, contingent on success, and paid their expenses on a broad and lavish scale, but permitted them to obligate it for many thousands of dollars used in bribing others. These men were usually referred to, by those privy to the secrets of the Company, as the "contractors." They were Heman B. Porter, Orlando Allen, James Stryker and Henry P. Wilcox.

Heman B. Porter, usually given the title of "General" because of his rank in the militia, was one of the leading attorneys in Buffalo, with a fine residence on Niagara Square. Porter had served the Company for several years before 1837 and was well known to be its attorney; in fact he was the only one of the four "contractors" who served it openly.

Orlando Allen was an outstanding figure of Buffalo for many years, undoubtedly an able and colorful individual, who could accommodate himself to the business now involved, signing bribery contracts, plying Indians with drink (he spoke Seneca and knew their customs), and yet a respectable figure in the business world, vice-president of the Bank of Buffalo in which Porter and Augustus Porter and his brother-in-law Fiferam Pratt were directors.

Allen had special needs to raise a breeze in the depression year of 1837, and he was the kind of an operator who could do it.

James Stryker had come in about 1825 from New York to Buffalo, where he was a lawyer, editor and politician. He had ties with the Jacksonian and Regency political factors, which brought him appointments to the Court of Common Pleas of Erie County (corresponding to a County Judge in recent years) and as Indian Agent for the United States. He was a man of unusual education and abilities, with a considerable family, and entertained elegantly in his home on Genesee Square, near Main Street. But he was addicted to drunkenness and always in financial difficulties, and in 1837 he was concealing the fact that he had misappropriated several thousands of dollars of Indian funds entrusted to him.

Henry P. Wilcox of Irving, sometimes called "colonel" and sometimes "doctor," probably knew about Stryker's deficits, because in July of 1837 Stryker executed a mortgage to Wilcox reciting that it was to secure moneys owing to the Seneca Indians. The Senecas did not know of this security or have any advantage from it, and probably its real purpose was to keep Stryker's creditors from seizing his property. Wilcox, like Stryker, enjoyed some sort of an appointment from the Indian Office at the same time he was working secretly for the Ogden Land Company.

Besides these four "contractors," the Company seems to have had for a while the services of the Reverend John F. Schermethorn, who enjoyed friendly relations with President Jackson and was commissioner for negotiating several notorious Indian treaties, but for present purposes served in a subordinate capacity to Commissioner Ransom H. Gillet, soon to be introduced. Another person involved on behalf of the Company was Nathaniel T. Strong, a well-educated Seneca chief from Irving, paid by the United States as interpreter and assistant to Stryker.

work. Of the *Colonial History* he said: "It seems to have been carried on for the benefit of the printers and to support an editor, and if so, has most admirably answered the purpose for which it was designed." Perhaps the Legislature had in mind that Edgar Allan Poe had referred to the Secretary of State as "The Autocrat of all the Quacks," or that the State Printer was Thurlow Weed. At any rate they paid no attention to the gentlemen and continued to see that the project did not lack financial support.

In 1861 Dr. O'Callaghan prepared an index to the *Colonial Documents* and with its completion left the empty of the State to win more glory with his scholarly editing of Colonial manuscripts in an unofficial capacity. In 1870 he left Albany to pursue his work in the city of New York where, until his death in 1880, he devoted himself to research among the colonial archives located there.

At this juncture fate and fortune again provided a scholar worthy of his predecessors, for in 1875 Berthold Fernow was commissioned by Secretary of State John Bigelow as keeper of historical records. Under the auspices of the Secretary of State, and later of the State Library, this former Prussian and United States Army Officer added volumes XII, XIII, and XIV to the publications of the *Colonial Documents*. Under the sponsorship of the Board of Regents he compiled volume XV and prepared many smaller publications of moment. Fernow left his position in 1890 with the appearance of Melvil Dewey in Albany.

With the passing of Fernow an era in scholarship ended in New York Colonial history. It is true that fine work has been carried on since but the great days were gone. The greatest contributions to source materials in the Colonial history of New York had been made from 1839 to 1887 by the writing scholarship of three men, born of three nations, who had found a common goal to strive for among the papers and manuscripts of the Colony and State of New York.

N. Y. History 1947
Vol. XXVIII

BUYING BUFFALO FROM THE INDIANS

HENRY S. MANLEY

SENeca Street in Buffalo runs southeasterly from near the foot of Main Street. Nowadays it is a beginning of State Route Sixteen and a thoroughfare to East Aurora and other communities, but until 1840 its name proclaimed the fact that it led nowhere except to the Seneca Village on the Buffalo Creek Reservation.

Buffalo, a thriving village until 1812, and thereafter a young city, was bounded at the west by Lake Erie and at the north by the rival village of Black Rock. With the various attention of the pioneer farmers drawn by the rich, level, well-wooded soil of the Reservation in the water-sheds of the Cayuga, Cazenovia and Buffalo creeks, it was predestined that Buffalo city would overrun the Indian community that blocked its expansion to the southeast. The boundary was then about where William Street is now, except for a jog which put the mouth of Buffalo Creek within the City.

The Ogdens Land Company was certain to be involved in the destined expansion, because it owned the pre-emptive title to the Seneca reservations. Time will not permit tracing its origins or the Company's activities between 1810, when it came into being, and the period now involved, or bringing its story down to the present day. In the period 1837-1840, with which we are presently concerned, the twenty shares of the Company were owned by about a dozen persons, mostly members of the rich and influential Ogden family. Thomas L. Ogden, an elderly and distinguished lawyer of New York City, was most active in the

¹Report read at Buffalo, October 17, 1946, at the Friday morning session of the Historical Society. Mr. Manley is an Assistant Attorney General of the State of New York and among his activities is representing the State in Indian litigation. He is the author of *The Treaty of Fort Stanwix, 1764*, published at Rome, N. Y., 1937.

July

A first fruit of the activities of the four "contractors" was a series of written agreements, mostly dated in August, 1837, by which various Seneca chiefs were promised substantial considerations for their efforts on behalf of a treaty, contingent on their working for it, signing it, and its ratification by the Senate. It is not known just how many of these so-called "bribery contracts" were made, or how quickly they came to public knowledge, but at least ten of them were printed in pamphlets published in 1838-1840 in opposition to the treaty. All of these contracts were signed by Potter, two of them were witnessed by Allen, and upon two of them Allen and Wilcox signed a supplemental article increasing the compensation. Thus Seneca chiefs Samuel Gordon and George Bennett, who on August 7, 1837, contracted with Potter for \$5000 each, about fourteen months later were promised another thousand each by Allen and Wilcox. The eight other published contracts provided for smaller amounts, but most of them also provided that the chief should have from the Company a life lease of his reservation lands, some of which were valuable farms. At least six other written bribery contracts signed by Potter were described in affidavits of 1839, and never were denied by him. Two of them were mentioned in confidential letters between Potter and Wadsworth and Ogden, which are now in the files of the Buffalo Historical Society.

Presumably unaware of these plans for his entanglement, former Congressman Ransom H. Gillet was then practicing law at Ogdensburg, having failed of re-election in 1836. Gillet was a close friend and former law partner of Senator Silas Wright, likewise acquainted with President Van Buren, and from the latter he received on October 28, 1837, a letter asking him to preside as commissioner at a treaty with the New York Indians looking to their removal westward. Gillet promptly accepted, and referred to his desire to accomplish "a work so much desired by the people of this state." Within a month Gillet

1947

BUYING BUFFALO FROM THE INDIANS

317

was conferring with Stryker and Schermerhorn at Buffalo, and sending letters to the Indian Office by Wilcox as his messenger.

The council over which he presided commenced about the middle of December, and lasted until January 31, 1838. There are no accounts of it available except those written by Gillet, consisting of his reports in the Indian Office papers in the National Archives and a defensive manuscript written within a year or two before his death in 1876, which is now in the New York State Library. The latter manuscript attempts to put upon Stryker and Schermerhorn the blame for anything censurable in the treaty, and says that Gillet promptly caught them in deceit, but his reports in 1838 and 1839 show that he maintained good relations with them, and relied upon Stryker to justify Gillet's own conduct.

The preliminary negotiations of the treaty in early 1838 were held in the Onondaga Council House, on the southerly side of Buffalo Creek near the influx of Cazenovia Creek. Gillet took up his residence at Allen's Tavern, about half or three-quarters of a mile away, on the northerly side of the Creek. He received at his rooms in Allen's Tavern the signatures of various Seneca chiefs who did not choose to sign more publicly, although the treaty itself recited that it was executed by the chiefs "assembled in council."

Notwithstanding this relaxation of formality, several weeks devoted to collecting signatures after the treaty was in final form, and the night-and-day exertions of the "contractors" and their assistants, only 43 signatures were obtained out of a number of Seneca chiefs variously estimated from 81 to 91. Ten of the signers were among those mentioned as surely bribed, six other signers subsequently made affidavits that they were induced to sign by having entered into similar written contracts, and various others made affidavits that their signatures were

obtained by threats or force or were affixed by unauthorized persons.

The documents signed were two in number, the treaty between the United States and the Indians, and a deed from the Indians to the Ogden Land Company. The deed did not say in so many words that it was dependent upon the treaty, but that was clearly the intention, because the deed surrendered all the New York reservations of the Senecas for \$202,000 to be paid by the Company, and the treaty promised that the United States would provide new lands where Kansas now is, and pay expenses of removal and subsistence and starting the Senecas in the new country.

Gillet immediately turned the deed over to Potter, receiving from him a receipt to the effect that he was to hold it in escrow:

until after the ratification of the Treaty between the said Commissioner and the said Six Nations, and until the consideration money mentioned in said conveyance or Deed, and all other moneys which the Grantees may be liable to pay to parties interested, are actually paid or secured.

Those last words were well suited to authorize and require Potter to withhold the deed from the Company until it paid not only the \$202,000 to which it was publicly bound, but also the various bribes and payments to its "contractors" which it had secretly promised. It is improbable that Gillet overlooked this language in the receipt he obtained from Potter, or was ignorant of its significance. Moreover, although he subsequently told the Senecas that their deed was effective regardless of whether the treaty was ratified, and used this as an argument for them to carry through the treaty, it is apparent that he knew better, and expressly provided that the deed was not to be delivered "until after the ratification of the Treaty."

Gillet took the treaty to Washington, where it was submitted to the Senate, but very promptly ran into a great deal of opposition. From late February until the middle of June the President, Senate and War Department were bombarded with petitions, most of them opposed, and Seneca delegations *pro* and *con* were maintained in Washington hotels. By April ninth, Congressman Millard Fillmore was writing to Secretary Joel R. Poinsett that the more was writing to Secretary Joel R. Poinsett that the delegations from his district were at much expense, and wanted a quick decision. He said that he expressed no opinion as to which way the matter should be decided, but a few days later he forwarded a letter from Mayor Josiah Trowbridge of Buffalo favoring the treaty, and by May former President (then Congressman) John Quincy Adams mentioned in his diary that "Fillmore had by some unnatural influence been induced to assume the defence of Schermerhorn's swindling practices." Undoubtedly the influence which caused the self-respecting Whig to support one of the least creditable agents of the Democratic administration was the keen desire of Buffalo for expansion.

After considerable delay, and on the last day of the session, the Senate acted upon the treaty in a conditional manner. Besides amending it in numerous respects, it ratified the treaty, provided however that neither treaty nor deed was to have any effect until they had been fully and fairly explained to the Senecas, "separately assembled in council," and they had given their free and voluntary consent.

Commencing about ten days after that action by the Senate, and lasting for eight days, there was a very interesting conference in New York City. Stryker, Strong and Willcox were returning home with their pro-treaty delegation of seven Senecas, having expended \$8,176.49 for travelling expenses and four months stay in Washington, as their vouchers in the Indian Office records show. In New York they stayed at the famous City Hotel, on Broadway

and without the treaty they would be homeless. Likewise he did not agree that Gillet had power to receive signatures privately. He witnessed the signatures so taken, but reported to Governor Everett that he disapproved of that method and thought it inconsistent with the Senate resolution.

The signatures obtained by these protracted exertions were sixteen obtained in council, two from ill chiefs in their homes, and thirteen who signed in Gillet's room at the Tavern. A total of thirty-one, concededly less than half of the chiefs, and twelve less than signed a few months before, but Gillet took the treaty to Washington and attempted to justify it on the ground that no more than sixty chiefs had attended the council at any one time—an odd argument in view of the fact that nearly half the signatures had been obtained elsewhere than in the council. The local Democracy supported him and Stryker vigorously in a letter to President Van Buren signed by George W. Clinton, Henry K. Smith, Frederic P. Stevens and Horatio Seymour.

The Commissioner of Indian Affairs, T. Hartley Crawford, seems to have been impressed, but his superior, Secretary of War Poinsett, promptly instructed that Gillet return to Buffalo and seek additional signatures. He was not explicit as to whether they must be obtained in council, and Gillet and Crawford agreed that it would be proper to receive signatures privately.

Dearborn still doubted the propriety of this method, but accommodated himself to it, even to the extent of making midnight trips with Gillet to the reservations to meet prospective signers while they were under the influence of various persuasions. Ten signatures were obtained in six weeks, so that the total stood at forty-one, or perhaps forty-two, a bare majority of chiefs if the lowest estimate of their number, eighty-one as claimed by the emigration party, were accepted. Potter again paid Dearborn his *per diem*, and agreed to pay his bill at the Eagle

Hotel, where Dearborn and Gillet had stayed.

The scene shifted once more to Washington, and the conflict revolved around the President and the Senate. President Van Buren very promptly attempted to make it the responsibility of the latter, by a message which recommended nothing, but submitted the treaty to the Senate, "for its advice in regard of the sufficiency of the assent of the Senecas to the amendments proposed."

The members of the Committee on Indian Affairs were equally divided and unable to agree upon any report except to report the facts, which they did. The Senate as a whole likewise was unable, or did not choose, to take definite action. After some weeks of struggle a two-thirds vote (26 to 13) was obtained for a resolution by Senator Tallmadge of New York which recommended to the President that he proclaim the treaty, and carry it into effect, whenever he should be satisfied that the assent of the Senecas had been obtained consistently with the Senate's prior resolution. Obviously the Senate had harried back to the President a responsibility that neither desired.

President Van Buren took no action for five months thereafter. Then, in August 1839, he sent Secretary Poinsett to meet with the Senecas and learn whether they assented to the treaty. There is a short account of this occasion in Dearborn's diary, and at Swarthmore College, in the letters of George T. Truman, is a more extended account from the Quaker viewpoint. Nothing was accomplished, as President Van Buren learned when he met Poinsett at Buffalo on September second. George P. Barker, one of the most eminent local Democrats, who talked with the President and Poinsett when they were in Buffalo, was quoted by Potter to Wadsworth as saying that he had no doubt the Secretary favored the treaty but he did not believe the President would approve it.

Meanwhile Buffalo was buzzing with other gossip. Stryker had left some hotel bills unpaid in Washington in the spring of 1839, and upon those he was arrested, and escaped

being jailed only because Ogden went his bail. A Buffalo merchant was asking the Indian Bureau to pay him a balance of his account, saying that he executed receipts for Stryker for the whole while receiving only a part, etc. Various others claimed to be unpaid on Indian accounts which should have been paid by Stryker. There was much talk about Indian annuities which were unpaid for two years past because Stryker had misappropriated them. One phase of these, involving a special account in the Bank of Buffalo paid out to the wrong people, resulted in judgments against Stryker and Allen, but Judge Horatio J. Stow, of the newly created Recorder's Court, directed an acquittal. Inasmuch as Judge Stow was attorney for the Bank of Buffalo and Allen and Pratt, this acquittal did not silence the gossip.

Moreover, it was noted that Judge Stryker about the same time in his own court convicted an editor for libel against Pratt and Stow, and the editor asserted from jail that this conviction was Stryker's contribution to a corrupt deal between B. Hancock, a prominent Buffalonian who had among his properties some water rights on and adjoining the reservation, issued a pamphlet telling the story of the four "contractors" so far as he had picked it up. Maria B. Pierce, an educated young Seneca, likewise issued a pamphlet telling the story of the burbery contracts. Potter reported that a Buffalo paper would have come out with a most outrageous attack upon Wadsworth except that somebody (Potter implied himself) had found means to keep it quiet. He also reported to Wadsworth that the latter was quoted elsewhere as having said "that if the matter rested with you, you would not accept of a treaty in which there was so much corruption and fraud if you was not obliged to." Potter rebuked his employer: "You have admitted too much for your own good." He advised that some "explanation" ought to be made promptly, apparently meaning a denial.

The battle of the pamphlets and in the press spread to New York, Philadelphia and Baltimore, the Quakers taking leading part, and the Ogdens defending. Most notable was a pamphlet of 256 pages issued by the Quakers in early 1849, entitled *The Case of the Seneca Indians*, which contained a series of affidavits charging various bribes, intimidations and deceptions.

President Van Buren sent the treaty back to the Senate in January, 1840, with a message of about six pages. Undoubtedly he was under great pressure from opposite directions, and the candor of his message was very creditable to him. He said that the Secretary of War had failed to obtain the assent of a majority of the Senecas to the amended treaty and that it could not be obtained, that he had every reason to believe that the prior assent had been obtained by improper means, and that he was not satisfied that the treaty could be carried into effect as to the Senecas consistently with the prior resolutions of the Senate. What he asked was, how far could the treaty be held valid as to the other tribes if rejected as to the Senecas?

The action the Senate took two months later was extraordinary in a number of respects. Its resolution instructed the President that in its opinion the treaty had been satisfactorily acceded to by the New York Indians, "the Seneca tribe included," and the President was authorized to proclaim it. This, although concededly the situation was unchanged since its resolution of March 2, 1839, which had returned the matter to the President. And although the 1839 resolution had recognized the constitutional requirement for a two-thirds vote on a treaty, the resolution of 1840 did not have the support of two-thirds, or even a majority. It was determined by three successive votes, each decided in favor of the treaty by the casting vote of Vice-President Richard M. Johnson. A unique record, it has been said, not only for the number of casting votes in a single day, but the only instance of a treaty ratified by the vote of the Vice-President!

Afterwards Daniel Webster, Henry Clay and John Calhoun (the first mentioned had absented himself from the voting, and the others voted against the resolution) were all quoted as saying privately that the ratification was a nailty for lack of two-thirds. There was some discussion among the Quakers about taking the issue to the Supreme Court of the United States, but nothing came of it. The Quakers were opposed to litigation as a matter of principle, and furthermore feared that this litigation might be attended by violence.

It is probable that Vice-President Johnson had been influenced to vote for the resolution by a desire to embarrass President Van Buren, to whom he was hostile. So probably had some others. But Silas Wright, who had defended the treaty and Commissioner Gillet in a pettifoggish speech in the Senate debate, and voted for the resolution when he could get none better, was probably influenced by party solidarity and personal jealousy to Gillet. That he had his doubts about the effect upon President Van Buren is shown by a private letter he wrote him two days after the final vote, saying he hoped the resolution would not embarrass him, and he believed "the effect politically may not be bad." This argument he supported by enclosing a letter recently received from George W. Clinton, who predicted that confirmation of the treaty would "lead to the return of the western part of the State to its ancient democratic principles."

A prediction not realized either then or subsequently, it is noted. President Van Buren, whether or not influenced by it, promptly proclaimed the treaty. If he made any comment upon the facts that the Senate resolution, determined by the casting vote of a man for whom he had contempt, was unresponsive to his message and called for an action by him inharmonious with the facts he had stated, his comment has not been preserved. He may have thought, in April of 1840, that his political future would be prejudiced if he raised his voice or hand to save the Seneca

reservations. The destined events were that the election of 1840 was to be won by "Tippecanoe and Tyler too," and that Buffalo city would expand southeasterly into what had been the Buffalo Creek Reservation.

The Senecas mostly remained in New York State, their Allegany and Cattaraugus reservations having been saved to them by a compromise treaty of 1842. The Tomawanda band seceded from the other Senecas and continued to fight for their reservation, part of which was secured to them by a treaty of 1857. Those three reservations continue to the present day.

BIBLIOGRAPHICAL NOTE

Mr. Grant Foreman, in *The Last Trek of the Indians* (University of Chicago Press, 1946), pp. 310-335, refers to the Seneca treaty of 1838, with some of the events which preceded and followed it. Her secondary material about the treaty is by Cristofel Johnson, *History of Erie County* (1876), pp. 422-423, 428-429; and Henry H. Howland, 24 *Buffalo Historical Society Publications* (1920), 167-187. Assembly Document No. 51 of 1889, a report of a legislative committee sometimes entitled "The Indian Problem," gives an account of the treaty and the Ogeen Land Company, pp. 24-37. It also prints the 1838 treaty and deed, pp. 151-162, and the 1842 compromise treaty, pp. 162-167. The treaties are also printed in the seventh volume of *U. S. Statutes*, and II Kappeler, *Indian Laws and Treaties*. See also a note in the 1922 edition of Lewis H. Morgan, *League of the Hoopets*, Vol. II, pp. 299-300.

The best printed source material relative to the treaty is General Henry A. S. Dearborn's diary, in 7 *Buffalo Historical Society Publications*, pp. 19-215. It covers only the period from October 15, 1838, to the end of that year, and two weeks in August 1839. Supplemental material is in the same volume, pp. v-viii, 33-38, and 502-504, the last mentioned a bibliography of printed sources.

The messages of President Van Buren to the Senate about the treaty are in Richardson, *Messages and Papers of the Presidents*, Vol. III, pp. 512, 561-566.

The proceedings and resolutions of the Seneca relative to the treaty are in Vol. 5 of its Executive Journal, unpublished until 1887 and difficult to obtain.

Four speeches upon the treaty in 1840, by Senators Sevier, Lumpkin, Norvell and Wright, are in volume 8 of the Congressional Globe. Senator Wright's speech is also in Gillet's biography of him, and Sevier's speech is in the *Case of the Seneca Indians*, mentioned below.

James Stryker (1792-1864), one of the four "contractors," has an excessively sympathetic biography in *Genealogical Record of the Stryker Family* (Wm. S. Stryker, 1887), pp. 55-57. See also *Annals of the Cyclopaedia of American Biography*; less favorable instances can be found in the following congressional documents: H. Rep. 367, 25th Cong., 2d Sess. (Serial Vol. 339; H. Doc. 138, 27th Cong., 3rd Sess. (Ser. Vol. 327); S. Ex. Rep. 34, 30th Cong., 1st Sess. (Ser. Vol. 576). The last mentioned, in 1848, reports on Stryker's military operations of Indian auxiliaries, with various references to P. Wilcox and Orlando Allen. See also S. Rep. 192, 31st Cong., 1st Sess. (Ser. Vol. 365).

Orlando Allen (1803-1874) has a friendly biography in the volume of Buffalo Historical Society Publications, p. 355 et seq. See also *ibid.*, 117-120. A less favorable reference to him is in W. L. Mackenzie, *Life and Times of Martin Van Buren*, pp. 90-91. He is referred to many times in the *Case of the Seneca Indians as active for the Ogden Land Co.* relative to the 1838 treaty. See particularly pp. 75, 76, 124, 115, 116, 119.

Heman B. Potter (1787-1854) was one of the best known Buffalo lawyers of his period. Among other references to him, see Samuel M. Welch, *Recollections of Buffalo* (1891), pp. 53, 345. In the same book at pages 123-125 is a good account of Nathaniel T. Strong. Henry N. Wilcox of Lewis, the fourth "contractor," receives relatively little attention in printed sources. General DeCoursey's diary refers to him several times.

Rev. John F. Schenckman (1792-1831) is represented in the *Schenckman Genealogy* (1914) by his picture, and what appears to be a very careful biography, pp. 94-97.

Nathaniel H. Gillet (1800-1876) received a short biography by Edna L. Jacobsen, in the 127th annual *Report of the N. W. State Library*, pp. 56-57. A footnote in Gillet's *Life and Times of Saml. Wright*, Vol. 1, p. 25, refers to Gillet's studying law in Wright's office about 1822-1823, and their friendship thereafter. A manuscript office biography of Gillet is in the State Library, but appears to be somewhat unreliable upon the present matter.

The principal pamphlets relative to the 1838 treaty are: *Address in Buffalo on the present Condition etc.*, published by Streets B. Meacock, on a weekly contract, and said there were many. *Protestants' Remonstrance*, *An Exposition of Some of the Friends' etc.*, published by Day & Stone in October 1839, contained most of the activities and comments which appeared in the *Case, The Case of the Seneca Indians*, published by the friends at Philadelphia in 1840, 266 pages. *Narrative of the Seneca Indians*, published in Buffalo in January 1845, and argued for the treaty. The latter reply was entitled *A Further Illustration of the Case of the Seneca Indians*.

Congressional documents bearing on the 1838 and 1842 treaties are: H. Doc. 66, 26th Cong., 2d Sess. (Ser. Vol. 383), a short protest by the Friends; S. Doc. 273, 29th Cong., 1st Sess. (Ser. Vol. 474) and S. Rep. 156, 29th Cong., 2d Sess. (Ser. Vol. 495), both relative to the Tonawanda band.

New York legislative documents include: 114; Assembly Doc. 88; 1842 S. Docs. 84, 92, 93; 1845 S. Docs. 93, 94, 104; 1846 S. Doc. 37; and 1847 S. Doc. 70.

See also a *Report on the Memorials of the Seneca Indians and Others*, printed by the Council of Massachusetts in 1840. In 1847 the Friends had printed at Baltimore a pamphlet of 189 pages entitled, *Proceedings of the Joint Committee, etc.*, reporting the matter to that year. Reported litigations which grew out of the 1838 treaty and cast light upon it are: *Wadsworth v Buffalo Agricultural Assn.*, 19 Barb. 833; *Strong v Witterman*, 2 Paige 607; *Tennens v Lee*, 5 Denio 628, affirmed 6 Hill 546; *McKean v Tillotson*, 3 Abb. Dec. 119; *Fellows v Blacksmith*, 60 U. S. 366; *Fellows v Durston*, 72 U. S. 708, reversing 13 N. Y. 420; *New York Indians*, 170 U. S. 1 and 173 U. S. 464. The briefs for the State in *United States v National Gymnasium Co.*, 141 F. 2d 879, and in *People ex rel. Ray v Martin*, 292 N. Y. 61, affirmed 326 U. S. 496, contain considerable data about Tonawanda and Seneca history.

Manuscript materials used in the foregoing article have been much more extensive than the printed materials, but it is not practicable to list them except by reference to the collections. Most extensive are the Indian Office papers in the National Archives at Washington, including papers received, classified by tribe and year, and letter book outgoing letters, which are mostly unclassified except by date. The Van Buren Papers in the Library of Congress yielded a few items. In the Friends Historical Library at Swarthmore College is a considerable file of material relative to the 1838 and 1842 treaties. The Ogden Papers possessed by the New-York Historical Society yielded some long-kept secrets of the Ogden Land Company, such as Wadsworth's epitaph of the reservations, and the amounts of cash assessments collected from the shareholders during the contest about the treaty. More illuminating about the four "contractors" and their relations to the Company (previously asserted in the sensational pamphlets opposing the treaty but unconfirmed) were half-a-dozen manuscripts now in the files of the Buffalo Historical Society, mostly copies of letters from Heman B. Potter to James Wadsworth.

near Trinity churchyard. There they were joined by Porter and Allen, and the four "contractors" conferred for days with Ogden and other shareholders of the Company.

The substance of their deliberations, as reported by Ogden to Follows and Wadsworth, by letters now with the Buffalo Historical Society, was that the "contractors" must have much more money, both immediately and in the future. They must have immediately presents to the delegates aggregating \$500, and \$1500 to cover certain personal expenses, besides \$6000 they had recently promised to unnamed "men who could exert a powerful influence" and who had enabled them to procure the recent conditional ratification. There must also be paid \$8,500 to compensate certain Seneca chiefs for beneficial provisions which had been stricken from the treaty by the Senate. Strong and another chief must have an immediate loan of \$1000, and Allen, Stryker and Wilcox must have \$200 each to pay their expenses home. Porter made a special personal demand for \$5000, of which he did not inform his associates, and claimed it upon the ground that his association and his feelings had suffered "beyond anything that was ever thought of or anticipated," by his having been held out as the Company's agent in the matter. In addition to these payments, the "contractors" said they must have \$6,000 for future expenses, and authority to distribute an additional \$25,000 or \$30,000 to chiefs besides power to grant life leases of their lands to influential Senecas who could not otherwise be persuaded.

Ogden paid \$1600 in cash and gave an order on Follows. Apparently some demands were granted and some deferred. During 1838 the Company issued "calls" against each of its twenty shares totalling \$7225, and thus raised \$24,700 for its interesting range of cash expenditures. During 1839 and the first seven months of 1840 its "calls" aggregated \$11,800 per share.

The second council of 1838 is much better documented

than the earlier one, not only in manuscripts in the National Archives and miscellaneous documents, but most notably the diary of General Henry A. S. Dearborn. Governor Edward Everett of Massachusetts named him to observe the treaty on behalf of that State, as was authorized under the Hartford Compromise of 1786, and he wrote each day an account of proceedings. This manuscript was acquired by New York State and was destroyed in the Capitol fire of 1911, but very fortunately it was printed in 1904 by the Buffalo Historical Society. Because the proceedings of August and September 1838 are so accessible I shall say little about them.

Dearborn appears to have been an honorable gentleman, according to his somewhat peculiar lights, but quite early became persuaded that the welfare of western New York, and even of the Senecas themselves, demanded their removal westward. He came from Boston and met Ogden at Albany (a meeting unexplained by his diary) and journeyed with Ogden in elegant leisure to the scene of the treaty, visiting with Gillet and Judge John Grieg at Canandaigua, another four days at the Wadsworth home at Genesee, and a couple of days at Niagara Falls. During the six weeks of councils in late August and throughout September Dearborn and Gillet established themselves at Allen's Tavern on the reservation, which seems to have been used by Allen, Stryker, Strong and Wilcox as a headquarters for their lobbying. At the end of the councils Dearborn was entertained at Porter's home in Buffalo, where he met Wadsworth, Trowbridge and others. Porter paid Dearborn a *per diem* allowance and his expenses. This interesting circumstance is unmentioned in his diary, but is referred to in a letter from Porter to Wadsworth.

Nevertheless Dearborn seems to have refused to aid Gillet in two reprehensible courses towards the Indians. He did not agree when Gillet, acting upon a hint from the Indian Office, told the Senecas that their deed was effective independently to divest them of their New York lands