CHAPTER EIGHT

FROM COMMERCE TO TREATIES

Treaty traditions in America flowed, in large measure, from proscriptions of the Royal Proclamation of 1763. In Canada, the spirit of retrenchment, the legal recognition of Indian “territory” and certainly the Proclamation's protocols for a Crown representative to extinguish native rights to land before settlement, informed the emerging system of treaties in Upper Canada, and eventually the massive land surrenders of the mid-19th century – the Robinson Treaties of 1850 being notable examples. In the United States, the republican rejection of executive interference in Indian Affairs and the strictures of the Royal Proclamation did not forestall the same outcome. Indeed, most of spirit of the 1754 regulations and sentiments of key colonial figures such as Benjamin Franklin, advocating a strong role for the federal government in the new republic’s Indian Affairs, remained intact after the revolution. Both in the remaining British North American colonies and the emerging, albeit fragmented Indian Affairs of the United States, the Royal Proclamation had begun a new era where significant caveats were placed on commerce laying a basis in Indian policy. Commercial exchange was frequently disallowed on emergent Indian reserves and reservations in both the United States and Upper Canada. Treaty signing governments hastened to close down trading between merchants and Indians and find new work for the great intermediary of the nineteenth century, the avowedly disinterested government Indian agent. The Washington administration’s first intercourse acts and the re-establishment of American government trading “factories,” which artificially established prices, barred credit and limited the availability and free circulation of goods, were only one indication of an emerging understanding of Indians in trade, one that, arguably, profoundly shaped relations between natives and North American governments in the nineteenth century.1

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Philosophical Underpinnings of New Relations

The philosophical basis for new relations had been lain at the end of the Seven Years’ war. For the British, victory over France raised questions of the size into which Britain should territorially expand, and the freedoms given to merchants in these vast geographic spaces. In that respect, in particular, Quebec acquired in the peace raised a number of quandaries for the British. Haphazard expansion geographically and commercially would require military commitments which the five successive British ministries before the Quebec Act, despite their differences, were quick to rule out. Such expansion would also defy the principles of English colonization established in the seventeenth century. Although some pamphleteers believed that not only Canada, but all the regions where French influence was felt among Indians, should be claimed by the British, most writers were hesitant to support a massive expansion of British responsibility. The pamphleteer “Cato” was particularly troubled by the social implications of a lumpish enlargement of Britain’s possessions, as laid out in his “Whether it is possible that the Immense Extent of Territory acquired by this Nation at the Last Peace, will Operate towards the Prosperity or the Ruin of the Island of Great Britain” (1765). Expansion in particular would allow the avarice and selfishness of merchants to run unchecked and wreak havoc in domestic and Indian affairs. The last of these concerns overshadowed Cato’s publication. Even in the most distant extreme of Empire, those “mercenary wretches, who, for the sake of private Gain” could undertake their commerce and bring “on the ruin of the whole.”

Cato’s hesitations had obvious implications for the Indian trade, as his footnoted reference to Sir William Johnson’s paternalistic “honesty and mercy” towards Indians makes plain. They were reasonably guided by Turgot’s stadial theories of social development, the forerunner of Scottish...