

# **D**ISCRIMINATION AGAINST **CHIPPEWA INDIANS** **IN NORTHERN WISCONSIN**

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**W**ISCONSIN ADVISORY COMMITTEE  
**TO THE UNITED STATES**  
**COMMISSION ON CIVIL RIGHTS**

*This summary report of the Wisconsin Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or to the Advisory Committee, but only to individual participants in the community forum where the information was gathered.*

**A SUMMARY REPORT**

**DECEMBER 1989**

## THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957 and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the Act, the Commission is charged with the following duties pertaining to discrimination or denials of equal protection based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote, study of legal developments with respect to discrimination or denial of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denial of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denial of equal protection; and the investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

## THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105 (c) of the Civil Rights Act 1957 and section 6 (c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

LETTER OF TRANSMITTAL

Wisconsin Advisory Committee to the  
U.S. Commission on Civil Rights

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Attached for Commission review and action is a summary report of a community forum conducted in Wausau on April 27, 1989, to obtain information on discrimination against Chippewa Indians in northern Wisconsin. The Advisory Committee voted 7 to 0 with one abstention to approve submission of this report to you.

The report summarizes information received during background preparations and the community forum convened by the Advisory Committee. Every effort was made to include a diversity of viewpoints on the issues by inviting participation from State officials, local law enforcement officials, Indian and non-Indian community-based organizations, antitreaty and protreaty groups, tribal leaders, and persons knowledgeable about Chippewa Indian treaty rights and the extent to which discrimination against Chippewa Indian people occurs due to resentment of their treaty rights. The Committee considers the views expressed as important and believes they should be shared with appropriate State and local officials and the general public.

The information provided does not result from an exhaustive review of the nature and extent of discrimination against Chippewa Indians, but does identify certain issues and concerns which the Advisory Committee may decide merit further investigation and analysis.

Respectfully,

/s/

James L. Baughman, Chairperson  
Wisconsin Advisory Committee

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## Introduction

This report summarizes the Wisconsin Advisory Committee community forum on discrimination against Chippewa Indians in northern Wisconsin, held in Wausau on April 27, 1989. This report includes background information on the historical and legal framework of Indian treaty rights and presentations made by representatives of State government, local law enforcement, Indian and non-Indian community-based organizations, tribal leaders, and persons knowledgeable about Chippewa Indian treaty rights on the extent to which forms of discrimination against Chippewa Indian people occur due to resentment of their treaty rights. It also includes efforts by State and local authorities to protect and enforce treaty rights, efforts that are underway by State and local government to address any discrimination, efforts made to educate and inform the public regarding Indian treaty rights and culture, and recommendations and suggestions for further alleviating any discrimination and injustice against Chippewa Indians.

## Background

The rights of the Chippewa Indians in northern Wisconsin have been a subject much discussed for as long as non-Indians have been settled in that area. The U.S. Court of Appeals decision Lac Courte Oreilles Band v. Voigt, 700 F.2d 341 (7th Cir. 1983) renewed friction between Indians and non-Indians in this part of Wisconsin. Popularly known as the Voigt decision, it upheld the rights of Indian tribes to fish, hunt, and gather timber and other resources as stated in long-standing treaties between the tribes and the Federal Government. The U.S. Supreme Court subsequently declined to review the decision, 464 U.S. 805 53 (1983).<sup>1</sup>

Many non-Indians and groups such as Equal Rights for Everyone and Protect America Rights and Resources (PARR) opposed the Voigt decision. As a result, friction between Indians and non-Indians, and fear of potential violence, caused State authorities and Indian leadership to call a conference in 1984 in Cable, Wisconsin. The meeting was conducted as a hearing by the Wisconsin Ad-Hoc Commission on Racism to receive information on instances of or allegations of racism and/or discrimination against Indians in northern Wisconsin. The Commission concluded that racism against Indians had intensified as tribes have gained legal victories and have pursued educational and commercial developments.<sup>2</sup>

Although tensions between Indians and non-Indians have been present in this area for many years, since the 1983 court ruling tensions have heightened and created much antitreaty rights sentiment as well as racial tensions.<sup>3</sup>

The Wisconsin Advisory Committee to the U.S. Commission on Civil Rights (Advisory Committee) conducted a community forum on December 7, 1984, in Superior, Wisconsin, on problems between Indians and non-Indians in northern Wisconsin. As a result of this forum, the Committee found that non-Indians' lack of information about Indian treaty rights and their legal implications was a major problem. In a briefing memorandum to the Commissioners, the Committee suggested the following:

1. Inform Indians, through distribution of the Commission's 1980 American Indian Civil Rights Handbooks, of their basic rights under Federal law and how to use remedies available to them.
2. Encourage improvement in the quality and responsiveness of the State and local criminal justice systems in dealing with violations of Indian rights.

3. Suggest inclusion in law enforcement training programs of material and exercises that will enhance police understanding of Indian rights and develop skills in dealing with explosive situations.
4. Request that the Wisconsin Department of Public Instruction promote improvement in the ability of local educational systems to provide accurate historical treatment of Indian rights issues involved.
5. Request that the U.S. Commission on Civil Rights reaffirm the positions taken in its 1981 report, Indian Tribes: A Continuing Quest for Survival, and authorize its reprinting. Distribution of this report, and its utilization by parties in dispute in northern Wisconsin, will serve to clarify the unique status of Native Americans and encourage the use of appropriate enforcement and conciliation mechanisms.<sup>4</sup>

Since the Advisory Committee's 1984 forum, the issue of Indian treaty rights and the effects of their implementation has continued to be a source of much controversy, and the potential for violence has increased. During hunting and spearfishing seasons in recent years, physical threats and racial harassment of Chippewa Indians in northern Wisconsin have been commonplace. A memorandum dated May 1987 submitted to the Wisconsin Equal Rights Council by an instructor at Nicolet College stated that racism and bigotry against Indian people are the result of community resentment of their treaty rights. This memorandum described incidents of racial harassment of Indians at baseball games and local shopping areas. On March 11, 1989, at the University of Wisconsin-Madison, a panel of experts on Chippewa treaty rights examined issues of racism and antagonism caused by the controversy surrounding spearfishing. The panel concluded that antispearfishing protests were the result of racial antagonism.<sup>5</sup>

On September 27, 1988, James Schlender, executive director of the Great Lakes Indian Fish and Wildlife Commission, briefed the Advisory Committee on recent incidents of alleged harassment and discrimination against Chippewa



Indians resulting from enforcement of their hunting and fishing rights. As a result of these reports and briefings the Committee decided to gather more extensive information on the subject at a community forum.<sup>6</sup>

On March 3, 1989, the U.S. district court rejected the State's attempt to set up its own fishing regulations and ruled that the Chippewa Indians have the right to regulate traditional tribal fishing practices as long as they adopt tough safeguards to prevent overfishing. News reports indicated a steady increase in antitreaty sentiment within the community, particularly in the areas of spearfishing. Antitreaty rights groups, such as Stop Treaty Abuse and PARR, urged people to disrupt the Chippewa's spearfishing. There were also organized protests at boat landings. In response to these antitreaty sentiments, protreaty rights groups such as the Witnesses for Non-Violence for Treaty and Rural Rights in Northern Wisconsin and the Madison Treaty Rights Support traveled to the spearfishing sites to monitor and prevent disruption of Chippewa spearfishing. To assure the Chippewa of their court-affirmed rights, local law enforcement agencies in northern Wisconsin developed a massive law enforcement operation to maintain control of the situation.<sup>7</sup>

With the opening of spearing season April 23, 1989, antitreaty forces congregated at the boat landings. Virtually all press accounts indicated that racism fueled the demonstrations. Some protestors tossed rocks at the Chippewa, more threatened them physically. Racist signs and slurs were commonplace. These protests resulted in some 200 arrests.<sup>8</sup>

After requests by the Governor, on May 6, 1989, the most active and largest spearing band, Lac Du Flambeau, suspended early their spearfishing season.<sup>9</sup> On May 9, 1989, the Governor met with the U.S. Interior Secretary and the State's congressional delegation to ask for Federal assistance in

resolving the Indian treaty rights problems in Wisconsin. Federal officials were reportedly adamantly opposed to any attempt to abrogate, or unilaterally modify the government treaties. The State's lawmakers believe that the only alternative to resolving the treaty rights dispute is a State-tribal agreement in which the tribes agree to curtail spearing in exchange for money or social-economic programs.<sup>10</sup>

According to census information provided by the Wisconsin State Department of Demographic Services there are approximately 29,320 Native Americans in Wisconsin consisting of 0.6 percent of the total State population.<sup>11</sup> Chippewa Indians in northern Wisconsin consist of six bands numbering approximately 8,409 persons.<sup>12</sup> The Chippewa bands are Bad River, Lac Courte Oreilles, Lac Du Flambeau, St. Croix, Mole Lake, and Red Cliff.<sup>12</sup>

#### Forum

The community forum brought together 13 participants from different perspectives to share their views and opinions on the extent of discrimination against Chippewa Indians that may have occurred due to their treaty rights. The Committee invited participation from State government, tribal groups, local law enforcement, business, media, and community-based organizations. A summary of information collected as background prior to the forum and at the forum is presented in this report.

#### Historical Overview and Legal Framework of Chippewa Indian Treaty Rights

Dr. David Wrone, professor of history, University of Wisconsin Stevens Point, and Donald J. Hanaway, Wisconsin attorney general, provided the historical and legal background information on Chippewa Indian treaty rights. Dr. Wrone stated: "From the first years of European contact with the Indian tribes inhabiting North America until the present day, treaties have been employed as an instrument to define relations between the

non-Indian and the Indian nations. A treaty is a formal agreement between two sovereign nations. The Constitution defined the Indian tribes as distinct sovereign nations and through the supremacy clause, treaties with them overrides all contrary Federal and State laws. Supreme Court Justice John Marshall laid down many of these in a famous trilogy of cases: Johnson v. McIntosh in 1823, Cherokee v. Georgia in 1831, and Worcester v. Georgia in 1832. Therefore, Indian nations are domestic sovereign nations. Their relationships are to the Federal Government and not to the States. Treaties with the Chippewas of 1837, 1842, and 1854, the ones presently at the base of much of the social agitation today in Wisconsin, function exactly as do treaties with foreign countries. The Chippewa ceded an abundance of resources to the United States: approximately 100 billion board feet of timber, 13 1/2 billion tons of copper ore, over 150 billion tons of iron ore, 19 million acres of land, water, power sites, ports and harbors. The Chippewa were not granted but reserved reservation sites of a few thousand acres and fishing, hunting and gathering rights".<sup>13</sup>

Attorney General Hanaway provided the following historical and legal analysis of Chippewa Indian treaty rights from the State's perspective: "Two hundred years ago, the land that now constitutes Wisconsin was occupied by a diverse mix of Indian tribes. In 1825 the "Treaty of Prairie du Chien" defined the boundaries of lands held by Indian tribes in this State. In 1836 Wisconsin was declared a separate territory and Federal officials began negotiating with Chippewa Indians for title to their lands. In 1837 the Chippewa agreed to sell the Federal Government title to lands in

northwest Wisconsin. In exchange, the government paid the Chippewa annuities and other financial compensation. While giving up title to the lands, however, the Chippewa reserved the right to hunt and fish and gather timber in the ceded areas.

"In 1850 President Zachary Taylor issued an executive order declaring that the hunting, fishing, and gathering rights in the treaties of 1837 and 1842 were privileges granted temporarily to the tribe and were revoked. The President ordered the Chippewa to leave Wisconsin and relocate to other tribal lands. The removal order was never implemented, hence Chippewa's hunting, fishing, and gathering rights in ceded lands remained unresolved. By the 1900's the State became more active in regulating fishing and hunting and took the position that conservation regulations applied to Indians. In 1908 in an incident foreshadowing today's legal battle, a Chippewa Indian was cited by State conservation wardens for fishing with a net. The case went all the way to the Wisconsin Supreme Court, which ruled that Chippewa treaty rights no longer existed. After that decision, the State continued applying its conservation rules to Indians and non-Indians alike, with no significant challenge by the Chippewa until 1974 when members of the Lac Courte Oreilles band went fishing on an on-off reservation fishing site and were issued citations. It resulted in a lawsuit that continues after 15 years in Federal court, a suit based on rights reserved by the Chippewa in treaties signed with the Federal Government 155 years ago. The lawsuit involves more than the right of Chippewa to fish off reservation, it involves the future of non-Indians and Indians in Wisconsin. Its landmark issues are economic, legal, and emotional."<sup>14</sup>

In 1983 the U.S. District Court for the Western District of Wisconsin began its process of defining what rights the Chippewa retained and how they would be exercised. This process of definition has been continued by Judge Barbara Crabb. The following summarizes the rulings made by the court:

1) The Chippewa still have the right to hunt, fish and gather timber and other resources from all the land they ceded to the government more than a century ago.

2) Unlike non-Indians, the Chippewa may use these resources for both personal and commercial purposes.

3) The Chippewa can harvest sufficient resources to maintain a modest standard of living. However, the right to harvest is not exclusive to the tribe. It must be shared with non-Indians.

4) The Chippewa can use harvesting methods not available to other sportsmen, including their traditional methods like spearing and gill-netting fish, as well as modern adaptations of those methods.

5) At present, the Chippewa can harvest off-reservation resources from public lands owned by the State or its political subdivisions and can hunt and fish on private land enrolled in the State's forest cropland program.

6) If harvesting from these lands is insufficient to maintain a modest living, the Chippewa may be able to seek court permission to harvest from private lands in the northern third of the State.

7) The State will be allowed to exercise "reasonable and necessary" regulation of Chippewa harvesting, when the tribes don't have their own effective regulations. State regulation may be justified to prevent depletion of resources or to protect public health and safety, but any regulation must be the least restrictive possible.

8) Chippewa walleye and muskie fishing must follow strict procedures to ensure that spearfishing and gill-netting don't endanger fish populations.

9) The Chippewa are entitled to collect attorneys' fees in their lawsuit.

10) The Federal Government is not a party to the lawsuit. Still to be decided is whether the State will have to compensate the Chippewa for past damages<sub>15</sub> for the decades in which the tribe did not exercise its treaty rights.

#### State Government

Representing the State's perspective on Indian treaty rights were Donald J. Hanaway, attorney general; Buck Martin, liaison for Indian affairs, Governor's office; and George E. Meyer, enforcement administrator, Department of Natural Resources.

Attorney General Hanaway stated that the Federal Government's fragmented and unfocused positions regarding Indians and government relations has been confusing to all parties involved in the problems of Indian treaty rights. According to Hanaway, since the treaties are Federal treaties interpreted by Federal courts, the Federal Government should be party to the ongoing litigation between the State and the tribes.

Hanaway described some of the reasons for frustrations among Indians and non-Indians residents:

The basis of frustrations by the Indians is a lack of non-Indian understanding of their culture...Frustrations among some non-Indians are fourfold...Economic loss such as income, loss of business and property values...a perception that spearing is ruining the fisheries...and confusion about the dual citizenship of the Indians...<sup>16</sup>

Hanaway also indicated that residents of the north are concerned about the lack of Federal assistance and understanding on this matter. Although these are Federal treaties ratified by Congress and coordinated through the Department of the Interior, there is no Federal involvement in the enforcement of these laws or attempts to settle the matter. These frustrations are manifested in racial slurs and epithets at the boat landings by what Hanaway regarded as a small group of people. The State, he said, had taken action to ensure the enforcement of the law. Prosecutors in the north and law enforcement agencies were notified of State statutes and civil rights laws that could be violated by protestors at the boat landings.

Despite the treaty problems, Hanaway maintained that the State continues to have a good relationship with the Indians. He reported that the State has a statutory standing committee to address Indian issues. This committee has been helpful in maintaining good relations between the State and the Indians. At this time the State and the Chippewas are attempting to

develop a clear policy on how to handle Indian treaty issues. A negotiated settlement is much preferred to what is likely to be endless litigation.

Buck Martin stated that the State is committed to assisting the Indian community in meeting its full political, economic, and social potential as tribal members and citizens of the State. In the area of education the State created by statute the American Indian Language and Culture Board. The board advises the four State educational agencies, which are the Higher Educational Aides Board, the University of Wisconsin Board of Regents, the Vocational Adult and Technical Education Board and the Department of Public Instruction (DPI) on Indian educational issues. He said that the DPI had been urged to create curriculum units that include the history of Native American communities and tribes in Wisconsin to be used in civics and local governmental classes. This curriculum was successfully piloted in the Rhinelander Public Schools. However, it is left to the individual school districts to establish such a curriculum in their schools. Martin indicated that more efforts are needed to encourage the use of this curriculum. The State has already initiated discussions with the Wisconsin School Board Association and the American Indian Language and Culture Board to urge school districts to include Indian culture and government in their curriculum. He also reported that the State's Indian Student Assistance Program provides educational grants to Indian students to match Federal grants from the Bureau of Indian Affairs. This program offers Indian students an opportunity to attend college.

Martin reported on efforts by the State to advance economic development on the reservations. To develop a private economy on the reservations, the Governor recently appointed a Native American to the Vocational Adult and Technical Education Board to coordinate economic development on the reservations. The State hopes to use the vocational system to promote

economic development. He also indicated that a reservation will be identified as an enterprise zone to receive State incentive assistance.

Martin pointed out that the State is also striving to foster more cooperative relationships between tribal governments and the local units of government. Last year the Governor cosponsored, with the Wisconsin Counties Association and the Great Lakes Intertribal Council, a leadership conference to discuss concerns of both groups. Martin indicated that the State has not been as successful in bringing together the tribal leadership and the antitreaty rights groups.

According to George Meyer, administrator with the Department of Natural Resources, the department is responsible for the application of treaty rights to State hunting and fishing regulations. The agency also ensures that treaty rights are exercised, ensures that natural resources are protected, and provides peacekeeping operations.

Meyer believed that the department and the tribes have done a remarkably effective job in maintaining the State's natural resources while accommodating the Indians' recognized fishing rights. He noted that this effort has been successful despite limited Federal assistance, as well as intense opposition from groups who oppose the implementation of Indian treaty rights. He reported that the spearfishing situation is much more difficult this year because the proposed fishing harvest for the Chippewa has increased based upon Judge Crabb's court decision of March 3, 1989. Also, this is the first year that non-Indian fishermen's bag limits have been reduced. He believed that these factors resulted in greater tensions and protest by non-Indians. He indicated that there was a sense of violence at the boat landings. Although racial comments and epithets were made by



protestors, he contended that it is questionable whether racism was the driving force behind this behavior. He believed that the motivating factors behind the current problems are a perception of unfairness due to the methods and amount of fishing allowed for the tribes; non-Indians' lack of knowledge and understanding of treaty rights; and non-Indians' belief that their individual hunting and fishing opportunities and livelihoods are being threatened. Meyer pointed out that the fishing stocks in northern Wisconsin will not be reduced or depleted because of spearfishing. However, the real issue is how the fish are going to be allocated among the users. He said that the groups most adversely affected by this issue are the sports fisherman and the business community. He noted that the local law enforcement agencies had done an outstanding job of keeping the peace.

According to Meyer the following efforts by the State are necessary to solve the current problems: (1) continued condemnation of racist opposition to treaty rights; (2) promotion of education and discussion in the schools about Indian culture and treaty rights and how they are associated with State and Federal laws; and (3) a negotiated settlement of treaty rights that is fair to the Chippewa while recognizing the importance of tourism associated with sport fishing and hunting.

#### Chippewa Tribal Representatives

Chippewa tribal representatives who addressed the Advisory Committee included James Schlender, executive director of the Great Lakes Indian Fish and Wildlife Commission; Thomas Mulson, Voigt Intertribal Taskforce; and Michael Allen, chairman of the Lac Du Flambeau Band of Lake Superior.

James Schlender contended that violence had occurred as a result of Indians exercising their right to spearfish. He recited numerous incidents in describing racial violence that had taken place. He stated

that rocks were thrown at Indians and other people who work for his organization. He indicated that defamation of Chippewa people appeared on highway signs such as "Save a Deer, Shoot an Indian"; "Save a Walleye, Spear an Indian." Other racially biased signs have also appeared at rallies held by antitreaty rights groups. These acts, he believed indicated a more direct and violent solution to what the people of the north view as "the Indian problem". According to Schlender, antitreaty rights groups have incited fear in residents that Chippewa fishing will cause economic disaster and the downfall of tourism. Schlender admitted that tourism in the north is changing. Schlender cited figures that show that only 8.3 percent of the tourists come to fish. He stated his belief that spearfishing is not the cause of the changes taking place in tourism.

He reported that racial hatred has spread to non-Indian children and the schools. For example, Indian children were ostracized from a little league at the high school in Minocqua; a racist poem was circulated through a school; and at another school, derogatory statements about Indians were written on doors. He stated that the DPI should increase its efforts to educate students about treaty rights.

Schlender indicated that the Chippewa have cooperated with the State to reduce the likelihood of violence and hostility. On April 19, 1989, tribal officials met with the Governor and agreed to reduce their take to 60 percent on lakes that were open for 100 percent harvest. He stated that this was done in exchange for a peaceful harvest.

In the area of government relations with the tribes, Schlender contended that the municipal and county governments have not been supportive of the Indian community. One local city council adopted a resolution

calling for the abrogation of treaty rights, and some other county governments have called for resolutions opposing spearing and the exercise of treaty rights.

Schlender recommended the following: (1) observation of boat landing protests by the Community Service Division of the U.S. Justice Department (2) greater Federal scrutiny of problems related to treaty rights; and (3) greater law enforcement intervention by the Federal government.

Thomas Mulson, a tribal judge representing the Voigt Intertribal Taskforce, began his presentation by playing a tape of a recent boat landing protest in which racial slurs and epithets were directed at Indians. According to Mulson, the Chippewa have experienced this type of racial harassment for the last 5 years because of their right to spearfish. He said that despite this racism, the tribal government is committed to nonviolence in the resolution of this problem.

Mulson contended that the non-Indian fishermen are not subjected to the same scrutiny by DNR as Indians regarding the counting of the catches. He noted that the fishes taken by the Indians are counted, measured, weighed, sexed, and the fish scales are sampled, while there is no actual count of the fish taken by the Wisconsin fishermen.

Mulson said that this year the law enforcement effort by the State has improved. He noted that the officers are more professional on the boat landings in comparison to previous years.

Mulson believed that the State had tried to resolve the problems between the Indians and non-Indians regarding treaty rights, but that the tribal government will not discuss treaty rights with antitreaty groups because they are not the spokespeople for northern Wisconsin.

Michael Allen, tribal chairman of the Lac Du Flambeau Band of Lake Superior, said that conflict over treaty rights is the result of ignorance and misunderstanding by non-Indians of Indian history and culture. He maintained that it has now escalated into fear, anger, and racism. He indicated that the Indian community's reaction to this racism is one of fear and a concern for safety. According to Allen, racial slurs are depicted on promotional items such as hats, handguns, bumper stickers, and beer. He reported that, at the boat landings, racial slurs are directed at Indians. He stated that he witnessed a protestor carrying an effigy hanging from a rope with a sign "Joe Indian." He maintained that these incidents are not isolated acts but are planned, encouraged, and organized by anti-Indian organizations. He believed that their goal is the abrogation of treaty rights and termination of tribes as political self-determining bodies with recognized property rights. He reported that these groups have joined other anti-Indian groups in other States to form a national organization called Citizens Equal Rights Alliance.<sup>17</sup>

Allen stated that the law enforcement effort had gone well. He suggested that an educational effort is needed to increase the public's awareness and knowledge of Indian treaty rights.

#### Community-Based Organizations and Advocacy Groups

Community-based organizations and advocacy groups represented at the forum were Dean Crist, Stop Treaty Abuse (STA); Rev. William Wantland, episcopal bishop of the Diocese of Eau Claire; Nick Van Der Puy, Citizens for Treaty Rights; and Sarah Bacchus, Madison Treaty Rights Support Group.

Dean Crist, of STA, stated that STA opposes the exercise of off-reservations rights by the Chippewa. In this effort, his membership of approximately 2,000 is working to eliminate Federal Indian policy. According to Crist this policy calls for huge sums of Federal money to

be used to sustain Indian reservations and their people.<sup>18</sup> He believed that Indian treaties have not been abrogated because States are unwilling to relinquish the huge sums of Federal dollars received for reservations. Federal Indian policy, he maintained, affords Indians fishing and hunting rights denied other American citizens. Crist contended that this policy has racially polarized the community.

Crist indicated that he does not defend or support the racial slurs and signs directed at Indians. STA members have been urged not to participate in such activities. He pointed out that people are frustrated because they believe their livelihoods are threatened and that the State's natural resources will be depleted by the spearfishing. Crist said that he speaks for the majority of residents in northern Wisconsin. STA wants an equitable resolution to this problem and is willing to discuss the issues with the Chippewas.

STA plans to force a solution to Indian treaty rights through the State or the Wisconsin Federal delegation. However, if this is not possible, STA will try to reopen and overturn the 1983 Voigt decision based on the grievous harm the decision has caused the State. Crist recommended that the Wisconsin Federal delegation enact a bill to abrogate off-reservation rights and that efforts be made to eliminate the Indian Federal policy.

Rev. Wantland, bishop of the Episcopal Diocese of Eau Claire, is also a member of the Seminole Nation of Oklahoma. He characterized problems in northern Wisconsin as similar to the pervasive racism that exists against Indian people throughout the United States. He said:

The problem that we are experiencing in northern Wisconsin is identical to the problem currently going on in Oregon and Washington in regard to the fishing rights of Indians. It is the same problem

that is going on in Oklahoma right now with the conflict between the people of the State of Oklahoma and the 35 tribes. It's the same problem that led to the re-federalization of three Indian tribes in Texas last year because of the State's persecution of Indian people. I mention this because we need to put in the full context that we are not dealing with a regional problem. We are dealing with a problem that stems from a pervasive ignorance of the status of American Indian people in the United States of America.<sup>19</sup>

Rev. Wantland stated that Indian tribes possess internal independence and a special relationship with the Federal Government that is rooted in treaty making and provisions of the United States Constitution. Most Americans, he believed, do not understand this relationship, which has led to misunderstanding and confrontation.

Rev. Wantland expressed concerns about the extent of racial bias against Indians. He cited the example of a retail store in Eau Claire that displayed a cap depicting a speared Indian with food stamps. He contended that this is a racist comment as well as an incitement to violence.

Rev. Wantland served on the Wisconsin Ad Hoc Commission on Racism which prepared a report in November 1984 concluding that racism against Indians had intensified as tribes had won legal victories and pursued educational and commercial developments. According to Rev. Wantland, the Commission's recommendations were ignored by local and State officials.

Rev. Wantland expressed optimism that the current problems can still be resolved if State and local government, tribal groups, private agencies, and churches begin to collectively dialogue about treaty rights. He suggested that education be a starting point toward this effort. He also recommended that the State should require public schools to provide studies on tribal culture and government.

Nick Van Der Puy, spokesperson for Citizens for Treaty Rights and a hunting and fishing guide, said that northern Wisconsin has always been the white man's domain. As a guide he has seen first-hand acts of discrimination. He cited the example of resort owners who were unwilling to provide accommodations for a black man visiting the area. He stated that everyone in the north is not racist but there is a lack of concern or indifference to the Indian community. He pointed out that he does not believe STA represents the views of most people in the north.

He contended that the non-Indian fishermen have not been adversely affected by spearfishing. One reason, he stated, is because DNR does not have the mechanism to check the catches of non-Indians, therefore, many fishermen are taking more fish than is known.<sup>20</sup>

He believed that more needs to be done in the area of education but he does not advocate education as the sole answer to the current conflict. He said that at the Rhinelander School District there is an Indian studies curriculum available but is only utilized at the elementary level. At the high school level very little is being done. He believed that there is also a lack of understanding and sensitivity by teachers regarding treaty rights.

Sarah Bacchus, spokesperson for the Madison Treaty Rights Support Group, indicated that she was a witness at the boat landings and was very disturbed about what she heard and saw. She stated that there was a crowd of 400 angry protestors chanting "Spear an Indian, Save a Walleye". She praised law enforcement officers for their high visibility and professionalism.

Business Representative

Thomas Stecker, president of the St. Germain Chamber of Commerce and resort owner, stated that his spring business has dropped about 50 percent in the last 4 years. He contended that the exercise of treaty rights began at the same time a decline in his business began. Some of that decline he said can be attributed to the exercise of treaty rights. He reported that although some businesses have done extremely well, the overall trend for business appears to be downward. Stecker said that spring business this year had been extremely depressed with a decline ranging from 10 percent to 70 percent in the St. Germain area. He believed that the bag limit restrictions for non-Indian fishermen is directly related to the drop in business. Stecker indicated that resort owners intend to take a survey of the tourists who cancelled their reservations this spring to determine whether or not cancellations were due to the fishing restrictions or for other reasons.

Stecker believed that most of the St. Germain community is against the exercise of treaty rights. He admitted that many people do not understand the history and legal aspects of Indian treaty rights. However, he said people are mostly afraid, angry, and frustrated that their livelihoods are being threatend.

Stecker blamed both the Chippewa and those that oppose treaty rights for the tensions. He said that the Chippewa were confrontational by the manner in which they exercised their fishing rights. Specifically, he believed they tried to take as many fish as needed to restrict the bag limits in order to push for a monetary settlement. Spearfishing at the current level will never be accepted in northern Wisconsin he said.



Media Representative

Richard Brooks is manager of WOJB radio station, a Native American operated and controlled radio station in Hayward, Wisconsin.

Brooks stated that misinformation about Indian treaty rights is pervasive in the broadcast and print media. He contended that the media had failed to educate the public fully and accurately on this problem. Brooks cited several examples of subjective and inaccurate reporting of the facts. For example, a local newspaper in Green Bay conducted a readership poll on the treaty rights issues but failed to distinguish between the various tribes in Wisconsin in taking this poll. As a result, the readers blamed the Oneida tribes who are located in Green Bay for the current problems. He believed that the cultural insensitivity and misinformation in the media is being passed on to the readers and listeners.

Brooks reported that the radio station had been a victim of racial vandalism. Last spring the radio billboards were defaced twice with the following racial graffiti: "Government supported radio." "Indian suck." "Welfare hogs, What would sitting bull think." "Sister rapers." The first incident was publicly denounced by Attorney General Hanaway, but the local newspaper did not report on the incident. Both incidents have been investigated by the Wisconsin Department of Justice, Division of Criminal Investigations.

Brooks indicated that the general public needs to be better educated on Indian history and the role that Indians have played in American history. Also more recruitment of Native Americans into the broadcast and print media fields is needed.

### Summary

This report summarizes views and opinions provided at a forum conducted by the Wisconsin Advisory Committee in Wausau on April 27, 1989. It reports the perspectives of a number of knowledgeable persons interested in, but with opposing views and opinions on, issues related to Indian treaty rights, which the Advisory Committee may decide merit further investigation and analysis.

The information received primarily focused on the historical and legal framework of Indian treaty rights; efforts by State and local authorities to protect and enforce treaty rights; efforts made to educate and inform the public regarding Indian treaty rights and culture; the extent to which forms of discrimination may occur due to resentment of Chippewa treaty rights; efforts that are underway by State and local government to address discrimination that may occur; and recommendations for alleviating any discrimination or injustice against Indian people. Perspectives on these issues were provided by State government officials, tribal groups, community-based organizations and advocacy groups, and representatives from the media and business. The Committee hopes the information received will encourage ongoing and constructive dialogue on the issues and provide an ameliorating effect on existing problems regarding this matter.

The Advisory Committee found that tensions between Indians and non-Indians have been present for many years in northern Wisconsin. Since the Voigt decision in 1983, affirming the rights of Chippewa Indians to fish, hunt, and gather timber and other resources, tensions have transformed into increased racial hostility and fears of violence. This increased hostility has been particularly provoked by spearfishing. During the spring

of 1989 tensions soared after the ruling by U.S. District Court Judge Barbara Crabb allowing tribal fishermen to take 100 percent of the safe harvest and reducing of bag limits for non-Indian fishermen.

The Wisconsin attorney general and a history professor provided an overview of the historical and legal framework of Indian treaty rights. Both acknowledged that whatever views one has on the reinterpretation of the treaty, the court rulings on this issue are law and must be obeyed.

State officials admitted that the protests at the boat landings had been tainted with racism but contended that this had involved only a small group of people. Enforcement agencies were notified of these anti-Indian activities to ensure that civil rights violations did not occur.

Local law enforcement officials were praised for their professional and prompt response to protests at the boat landings. Since the forum, the Federal Bureau of Investigation is looking into possible civil rights violations by protestors who allegedly threw rocks and shouted racial slurs.

According to reports by the tribal leadership and other protreaty rights groups, "Save a Walleye, Spear an Indian" and "Save a Deer, Shoot an Indian" are examples of slogans directed at Indians and placed on promotional items such as hats, handguns, bumper stickers, and beer.

A spokesman for an antitreaty rights group claimed that his organization does not encourage or sanction racial hostility against Indians. He indicated that any racial hostility exhibited is due to fear that increased fishing and hunting rights by Indians threatens tourism, business, and personal and recreational real estate of the area.

There were numerous complaints regarding the lack of public knowledge about Indian treaty rights. The State and local education agencies were accused of failing to provide courses on Indian and treaty rights. Also, the local print and broadcast media in northern Wisconsin were accused of failing to cover stories related to treaty rights accurately and objectively.

The State and antitreaty rights groups specifically complained of the Federal Government's failure to provide assistance in resolving the problems surrounding treaty rights. Since the forum, the Governor and members of the Wisconsin Congressional delegation have met with the U.S. Interior Secretary to request assistance.

Overall, the information received indicated that little has changed since the Committee's last review of Indian treaty rights in 1984, except for an increase in racial polarization. However, a wide variety of suggestions were made by presenters that they believe should be considered in resolving treaty rights issues and the discrimination that has occurred as a result of their implementation. These suggestions are outlined below:

#### State Government

1. Continued condemnation of racist acts associated with treaty rights.
2. Promotion of education and ongoing discussion of Indian treaty rights and culture in the schools.
3. A negotiated settlement of treaty rights that is fair to the Chippewas while accommodating the needs of tourism and business.
4. Greater Federal Government involvement and assistance in the resolution of problems associated with treaty rights.

#### Tribal Representatives

1. Observation of boat landing protests by the U.S. Justice Department, Community Relations Division.

2. Greater Federal scrutiny of the law enforcement efforts in the exercise of treaty rights.
3. Statewide educational efforts to increase public awareness and knowledge of Indian treaty rights.

#### Community-Based Organizations and Advocacy Groups

##### Antitreaty Group

1. Eliminate Federal Indian policy.
2. Abrogate Indian off-reservation treaty rights.

##### Protreaty Groups

1. Review and reconsideration of the recommendation made by the Wisconsin Ad Hoc Commission on Racism in a report dated November 1984.
2. Require mandatory curriculums on Indian treaty rights and culture in public schools.
3. Formation of a coalition involving local and State government, tribal government, churches, and other community groups to address Indian issues.

##### News Media

1. The news media of northern Wisconsin need to increase their efforts to report accurately and objectively Indian treaty rights issues.
2. Increase efforts to recruit Native Americans into broadcast and print media fields.

Notes

1. Wisconsin Advisory Committee to the U.S. Commission on Civil Rights, Issues of Indian Rights in Northern Wisconsin, briefing memorandum to the Commission (Apr. 1985), p.1, on file at CRD.
2. Ibid, p.2.
3. Ibid, p.1.
4. Ibid, pp. 10-11.
5. Teresa M. Nitzel, "Chippewa Hunting and Fishing Rights," (Memorandum to Wisconsin Equal Rights Council, June 23, 1987); "Treaty Experts Appeal for Calm, Blame Media for Racial Antagoism," Milwaukee Journal, Mar. 12, 1989, on file at CRD.
6. Minutes of Wisconsin Advisory Committee, Sept. 27, 1988, on file at CRD.
7. "Rights Group to Watch Anti-Spearing Protests," Milwaukee Journal, Feb. 26, 1989, on file at CRD; "You're Like KKK, Chippewa Tells Treaty-Rights Foes," Green Bay Press-Gazette, Feb. 21, 1989, on file at CRD; "Spearfishing Police Aid Clears Assembly," Green Bay Press-Gazette, Mar. 16, 1989, on file at CRD.
8. "Spear Protest Leads to About 100 Arrests", Green Bay Press-Gazette, May 6, 1989, on file at CRD; "Spearing Halt Called Gesture of Goodwill," Green Bay Press-Gazette, May 8, 1989, on file at CRD; "FBI Reviews Civil Rights in Protests," Green Bay Press-Gazette, May 10, 1989; "Spearers Scuffle with Protestors," Milwaukee Journal, Apr. 26, 1989, on file at CRD; "Thompson Tries to Cool the North," Wisconsin State Journal, Apr. 30, 1989, on file at CRD; "Protestors' Rock-throwing Frightens Chippewa Spearer," Milwaukee Sentinel, May 1, 1989, on file at CRD; "When Night Falls, Hate is Turned on," Milwaukee Sentinel, May 5, 1989, on file at CRD; "Shaming Wisconsin," Milwaukee Sentinel, May 6, 1989, on file at CRD.

9. "Spearing Halt Called Gesture of Goodwill," Green Bay Press-Gazette, May 8, 1989, on file at CRD.
10. "Thompson Presses U.S. on Spearing Controversy," Milwaukee Journal, May 9, 1989, on file at CRD; "U.S. Not Eager to Step Into Treaty Issue, Lawmakers Say," Milwaukee Journal, May 12, 1989, on file at CRD.
11. Wisconsin State Department of Demographic Services, telephone interview, June 20, 1989.
12. Wisconsin Bureau of Indian Affairs, Tribal Operations, telephone interview, June 22, 1989.
13. Transcript of community forum, pp. 8-18.
14. Don Hanaway, attorney general of Wisconsin, "History of Chippewa Treaty Rights", March 1989, p.4.
15. Ibid.
16. Transcript of community forum pp. 50-51, on file at CRD.
17. Transcript of Wisconsin community forum, p. 187, on file at CRD.
18. Transcript of Wisconsin community forum, p. 169, on file at CRD.
19. Transcript of Wisconsin community forum on file at CRD, pp. 152-153.
20. George Meyer, administrator with the Department of Natural Resources, indicated that the department does spot-check the catches made by non-Indian fishermen. However, the check is not rigorous because the hook and line method of fishing used by non-Indian fishermen is not as effective as spearfishing. He said that Federal court rulings have determined that spot-checks of the catches made by hook and line fishermen is appropriate; telephone interview, July 13, 1989.

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