



# **rites of conquest**

The History and Culture of  
Michigan's Native Americans

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## On White Man's Road

### 1850-1910

By the mid-1840s, it was evident that the policy of physically separating Indians from whites would not work. Not only the west filling with settlers, but heavy waves of immigration from Ireland and particularly Scandinavia also resulted in increased settlement of the northern, forested regions. Only the Indian territory of Oklahoma and unceded Ojibwa lands west of Lake Superior were available as places to warehouse "removed" Indians, though Commissioner of Indian Affairs Medill proposed the establishment of Indian colonies in these regions in 1848, the threat of removal was all but gone.<sup>1</sup>

The new Indian policy that emerged during the middle of the nineteenth century was led by progressives such as Charles Luke Lea, and George Manypenny. These men rejected removal but also the racism and paternalism of Lewis Cass and Henry Schoolcraft, which laid the failures in Indian policy on what they saw as inherent flaws in Indians themselves. As commissioner of Indian Affairs, Luke Lea contended that the failure of removing and civilizing Indians was, in fact, the fault of government policy. He believed, he believed, were entirely capable of civilized pursuits, and that the remedy was not removal but rather the gradual process of assimilation into American society.

To accomplish this end, Lea, and later Manypenny, believed that Indians had to be concentrated on small reservations within their own territories, where they could be protected from undesirable influences and effectively exposed to education, Christianity, and domestic arts, and agriculture. These ends were to be achieved

A new administrative arrangement created in March, 1849, when Congress formed the Department of Interior. The Indian Department was transferred to the new department from the Department of War. George Manypenny, who succeeded Lea as commissioner in 1853, was not only committed to the ideal of civilizing the Indians but also believed that private property, so central to American life, was the concept that could make it work.

During his tenure as commissioner, Manypenny negotiated fifty-two treaties. These he characterized as treaties of peace and friendship, treaties of acquisition with a view of colonizing Indians on reservations, and treaties of acquisition providing permanent settlement of individuals at once and in the future on separate tracts of land for the general abolition of the tribal character.<sup>2</sup> By the latter he meant ending, pagan, and uncivilized pursuits that he saw as being encouraged by providing Indians with too much land, land held in common, and cash annuities that benefited non-Indians more than the intended recipients. The Manypenny policy was thus based on two convergent ideas of how Indians were to be civilized. The first was that the government would temporarily provide support and security to foster the process, and, second, that the allotment of land to individuals would hold out the incentive and means to achieve civilized life. When necessary, protection was provided by defining reservation boundaries and by restricting land transfers to non-Indians.

Manypenny's treaties contained many common provisions. Land was usually set apart in large blocks from which Indians could make selections for family farms. Heads of families were permitted to select 80 acres, and single adults over 21 years of age, 40 acres. Those who were literate in English could dispose of this land as they wished, but those judged by their agents as "not so competent" were required to get permission to sell. In most cases, reservations were created to control the civilization process; while Indians could leave at will, non-Indians could not enter the reservation or use its resources without permission. In effect, reservations became the new "Indian country." Indian agents also assumed broad new powers in administering Indian affairs on reserved lands. Manypenny preferred that Indian payments be made in goods and services, rather than cash that made Indians "indolent and lazy" and thwarted the ethic of honest work for an honest wage. Besides agriculture, education became an important aspect of the civilization policy and day schools were run on

contract or, increasingly, by the government itself. Many of them were successful and it was not long before a bilingual generation conversant with both traditional and non-Indian customs and skills appeared on the reservation.

The civilization-reservation policy conformed in many ways to the desire of Indians to remain permanently within their traditional territories and to acquire access to education for their children. These desires were extremely acute, particularly given the legacy of the greed and opportunism of the Cass-Schoolcraft and Stuart tenure when much of the Great Lakes country was snatched away without providing Indians a viable means to survive or secure their own land.

Consider, for example, that the Treaty of Washington (1836) left the Michigan Ottawa and Chippewa on temporary "reservations" that could be terminated by the government at any time. Likewise, in northern Wisconsin and western Upper Michigan, the government had been so anxious to acquire timber in the Treaty of St. Peter (1837) and minerals with the Treaty of La Pointe (1842) that it simply left the Lake Superior Ojibwa wandering the ceded territory. At any time they could be removed by the "Order of the President." The same was true for the Saginaw Chippewa. Most of the reservations made under the Treaty of 1819 were later purchased by Schoolcraft in the Treaty of Detroit (January 14, 1837). It is no wonder that the Indians of the Great Lakes were demoralized, fearful, or that they barraged anyone who would listen with persistent requests for permanent homes.

The treaties negotiated by Commissioner George Manypoint at La Pointe on September 30, 1854, in Detroit on July 31, 1855, and on August 2, 1855, solved these problems but by a method so little conceived that it created great hardships that continue to this day. All these were allotment treaties that allowed Indians to select land from townships set aside for this purpose, and all provided a variety of services. In some cases, Indian interests were protected by reservation boundaries created by permanently withdrawing blocks of land for exclusive Indian use; in other cases, Indians were given a time limit to make selections, after which the remaining land was put up for sale to the general public. The result was that the Indians would be interspersed among those of their white neighbors. The Treaty of La Pointe (1854) is an example of the former type, which left the Ojibwa of northern Wisconsin, eastern Minnesota,

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Many western upper Michigan with bounded reservations. The Ottawa-Chippewa Treaty of July 31, 1855 is an example of the latter type, in that it left the Indians of western lower Michigan and the eastern Upper Peninsula scattered. In the treaty of August 2, 1855, the Saginaw Chippewa agreed to give up the remaining reserves in the Saginaw valley and the United States agreed to provide various services at the location of the allotments that were to be made from six adjoining townships in Isabella county.

The six townships of land were selected in a region that had very sparse, if any, settlement in 1855, yet the government knew it must accommodate preexisting interests. For example, it was certain that some sections were reserved for the support of schools under the Northwest Ordinance, and it was almost certain that some areas would be designated as swamplands, and under the Swampland Act, these would go to the State of Michigan. It was possible that the Canal Act, which provided government land to the St. Marys Ship Canal Company, could have resulted in selection of some of the land in the six townships. The United States also had to accommodate American settlers who might have settled in the townships prior to their survey, since the Preemption Act gave such settlers the opportunity of first purchase of the land they occupied at an equitable rate. For all of these reasons, the treaty of August 2, 1855, explicitly stated that the six townships would consist of the unsold lands. That is, it was to exclude from allotment those parcels that may have already been selected, whose use was predetermined or preempted by settlement. The Isabella location was chosen specifically to minimize such conflicts. It was remote and in an area of marginal agricultural worth.

In the case of both 1855 treaties, trouble soon emerged. Bureaucratic inefficiency delayed and snarled the allotment process. Patents were not issued until the early 1870s, long after the expiration of the five-year grace period. Even before it expired, citizens and politicians were clamoring for the right to purchase land from the reservations.

During the late 1850s and the years of the Civil War the Saginaw Chippewa remained in limbo. They still had no secure land and they were coming under extreme pressure from non-Indians to the point that they understood that they were practically powerless to protect their interests without further help from the U.S. government. In

early 1864, the Saginaw chiefs petitioned President Lincoln for a new treaty to resolve the myriad problems now before them. Among the problems was the fact that no provision had been made in the 1855 treaty for land to be provided to Indians as they came in and that whites were threatening the community. The chiefs felt that if whites were allowed to enter the reservation and purchase land, they would again be "scattered."

The government hurried to accommodate the chiefs' request for a new treaty, which was signed in October, 1864, but its agents were not totally honorable. As active Republican politicians, the agents and their employees were keenly aware of the fact that support for the Republican administration of Lincoln and Governor Austin Blair was eroding, with the governor's margin of victory falling from 20,000 votes in 1858 to 6,000 in 1862. Two of the six members of congress elected in that year were Democrats. Local elections in many districts promised to be tight in 1864. Agent Leach, then the Commissioner of Indian Affairs in early October, a little more than a week before the 1864 Treaty was concluded:

We hope to make the proposed changes in the treaty of great political use to us. Our Indians are voters and their vote is of great importance to us at the approaching election. The Saginaw Chippewa reside in the closest Congressional district in the State and hence, anything fair and honorable that we can do to put them in good humor and to favorably dispose them toward the Government we wish to do.<sup>4</sup>

The Saginaw Chippewa, unlike the Ottawa and Chippewa of the eastern Lower Michigan and the eastern Upper Peninsula, were not accommodated with a new treaty. As an aside, the Ottawa and Chippewa never got the reservation treaty they so desperately desired. A remedial piece of legislation called the Indian Homestead Act was passed in 1872 that permitted the Ottawa and Chippewa to receive 160-acre homesteads but left them scattered and unprotected. Whites were permitted to buy unselected land within the reservation, the land set aside for their allotments in 1855. The result was that they soon sold or were swindled out of their land.

Such was not the case in the instance of the Saginaw Chippewa. The new treaty of 1864 created a reservation from

original townships for the exclusive use, ownership, and occupation of the Saginaw peoples. It may be presumed that this provision solved two different problems. First, it provided a pool of land to accommodate Indians both as they came into majority status and those otherwise entitled to selections in exchange for land in Saginaw Bay. Second, the reservation provided a means to safeguard and control the process of civilizing the Saginaw Chippewa. The articles of the treaty provided for educational and agricultural instruction and economic support for the community.

There is one other provision of the 1864 treaty that hard and bitter experience had shown to be necessary to maintain individual land interests (even within the bounds of the reservation), a restriction on alienation. The treaty provided a means for the agent to distinguish between literate or "competent" persons and those who did not know or write the English language, the "not so competent." By this classification it was presumed that the agent could protect land tenure, that a "not so competent" individual needed the government's permission to dispose of his land. What the government did not foresee was that an agent might use the classification to certify nonliterate Indians as "competent" and to recommend land transactions for "not so competent" people. That is exactly what happened in the case of the Saginaw Chippewa.

As progressive and enlightened as the civilization policy seemed to be in contrast to removal, in practice it did not work at all well. Despite good intentions, the last half of the nineteenth century was almost as difficult for Great Lakes Indians as the first. Although they did achieve their major objective in dealing with the United States, that is, the right to remain in the Great Lakes region, they found the new order difficult and frustrating.

The reported progress of Great Lakes Indians toward civilization is well documented in the annual reports of Indian agents, agency employees, and missionaries. In fact, however, these reports were often self-serving and do not form a basis for an accurate evaluation of the condition of Indians during the late nineteenth century. What agents did, as opposed to what they said, tells the real story.

At the root of the problem was the Indian bureaucracy itself. Once Indians were concentrated on reservations where services could be "effectively" provided, the Indian service expanded. In the years after the Civil War, the business of making annuity payments to

individual Indians, supplying goods and services, and managing land and resources such as timber required more people. It also opened many opportunities for corruption. Likewise, agents were now in a position to control the affairs of reservation communities, since Indians became of necessity more dependent upon government supplies. This dependence resulted from their inability to procure supplies without access to off-reservation resources and also because the land allotments gave agents more power to make decisions that affected individuals and communities.

During the Grant administration, patronage in government resulted in a deterioration in the qualifications of agents. Many had little or no prior experience with Indian affairs and few stayed on a job for more than a few years. Worse, many were corrupt, more intent on making money at the expense of Indians or delivering the Indian vote in local elections than in managing the affairs of reservations to benefit their inhabitants.

### The Reservation Scene

What was life like on Great Lakes Indian reservations and among many small communities of Indians living off reservations in the decades following the Civil War? Although conditions varied somewhat in those places that were closer to the margins of American settlement, the Keweenaw Bay reservation in Baraga County provides a typical example.

Here, six townships of land had been set aside as a reservation under the Treaty of La Pointe (1854). The treaty, one of the allotment treaties to be written, provided that 80- and 40-acre allotments could be selected by adult members of the bands that comprised the community. Although selections were made and submitted to Washington, no patents had been issued by the mid-1860s, which alarmed Chiefs David King, Asinence, Pushquaqua, and Matyawwosh, who were veterans in the long and desperate struggle against removal. In fact, however, the desire for patents was more of a political stopgap than a significant economic or social goal. Unlike the case among Indians in the southern part of the country, the allotments at Keweenaw Bay would never be productive because heavily timbered allotments were not places on which the Indians planned to reside. They were, of necessity, fishing and



...ed to live on the shores of Keweenaw Bay even after the ... their patents in the last decades of the century. Even so, ... individuals, with the encouragement of the resident govern- ... , managed to clear and plant a few acres of potatoes, ... crops, oats, and hay.

... the 1840s, the Keweenaw Bay community had been divided ... distinct factions, each in turn composed of independent ... These consisted of a Methodist community on the east side ... near the new American town of L'Anse, a Catholic com- ... near Baraga on the west side, and free-ranging traditionalists. ... the Christian communities had about three hundred people ... on land purchased before the treaty by their respective ... . In 1863, Father Baraga deeded the Catholic lands to ... .<sup>6</sup> Converts in each community had a church, a school ... missionaries, and neat log cabins arranged in rows in which ... . The people wore American-style clothing except for moccas- ... which they preferred over stiff leather shoes and boots. A few ... odist Indians spoke English because they were instructed in ... language in both church and school. In the case of the Catholics, ... catechism and lessons were given in Ojibwa. The Catholic com- ... was also closely affiliated with the French Canadian and ... people, and many spoke French as well as Ojibwa.

... Children were given Christian names at baptism and some fami- ... were beginning to use Anglicized versions of their Indian names. ... thus *Magozid* became Edward Loonsfoot and *Jawaninodin* became ... John Southwind. Both French and English surnames also appeared, ... reflecting marriages between white men and Indian women. As a ... result, tribal rolls contained the names of Nancy Smith, Mary St. ... Armandt, and John Vizneau. In many cases, Indian names were ... retained as surnames, as in the case of Joseph *Aishquaygezhiak* or ... John Battise *Kawmetighyosh*.

Beyond these two small and rather permanent Christian commu- ... nities, which are the subject of at least 90 percent of the contempo- ... rary written descriptions of the Keweenaw Bay community, was a ... much larger, traditional community. This consisted of perhaps 600 ... to 800 people made up of four to six bands who resided seasonally ... at Keweenaw Bay, along the Ontonagon River, or at Lac Vieux ... Desert near Watersmeet in Gogebic County. The modern, federally ... recognized Lac Vieux Desert Band is a successor of this latter group.

These people, who continued to follow the seasonal round, dressed in a mixture of traditional and American clothing, lived in wigwags and practiced *midé-wi-win* and other traditional rituals. They strongly resisted the efforts of Christian missionaries, land allotment and the English language. They converged on Keweenaw Bay in summer and fall to fish and visit their Christian relatives and, if possible, to receive government annuities and subsidies. To the agents and missionaries, the traditionalists represented an obstacle to the illustration of the failure of the civilization programs. It is no wonder they appear so seldom in written accounts of the reservation—except as a rationale for more appropriations.

To these traditional people, the allotment of land was nonsense because the land itself was not property but the source of resources that served the common good. It was obvious, moreover, that the government's attempts to settle them could not work because hunting could not produce enough food. After all, these people had planted gardens on the shores of Lake Superior for centuries until they knew how undependable agriculture was in this region of cold and severe climate. Traditionalists were caught in a dreadful dilemma: the bay could only support so many sedentary people. To send their children to school, to learn farming, or to live in government towns required a sedentary existence and sedentariness would mean starvation. They had to move to live and, of course, they did.

The government establishment at Keweenaw Bay was divided on the Methodist side and dispensed services strongly favoring the government agents. This encouraged competition and resentment between the missionaries and the two groups, an enmity that incidentally still divides the modern community. A government farmer held the land for the Indians clear some land but did most of the farming himself, selling the surplus for his own advantage. To feed the government oxen, the Indians had to haul hay in their canoes from Portage Lake, fifty miles away. The chiefs protested the actions of the farmer and made their voice in the hiring and firing of government employees on the reservation.

Aside from trying to get the government to send their children to school, the people also tried to collect on unpaid annuities from the treaties. They were also becoming very worried because the government were beginning to covet the timber growing on reservation lands.

As the opportunity arose, Keweenaw Bay men took to the woods to

cutting timber for mine shoring and cordwood for lake. Both men and women were employed in commercial fishing as deck hands or crew members and the women in and packing fish. Women also contributed to household income by collecting and selling berries and making maple sugar and items. Sugar was by far the most important export from Keweenaw Bay. Tens of thousands of pounds were shipped annually to American cities in bark boxes called *mokaks*. In 1865 the Keweenaw Bay bands sold 453,252 pounds of maple

the most part, relationships between the Keweenaw Bay people and their white neighbors at L'Anse seem to have been harmonious at least in the early years of settlement. There was little racial and considerable cooperation.

Like the Keweenaw Bay people, the other Great Lakes Indian communities were trying to maintain the integrity of their culture. Until the last quarter of the nineteenth century they were successful. Notwithstanding the intense assault on their culture and traditions, the loss of land, and their exposure to broader cultural perspectives, they were able to maintain their language, social and economic systems, political integrity, and religious values. They were not aggressive or hostile in dealing with the U.S. government, but they were single-minded and persistent in representing their views. Many Indians, even the ones who clung most stubbornly to traditional beliefs, saw change as inevitable and believed that the education of their children would serve the entire community. There was, in fact, a growing sentiment among some Indians that they should become citizens of Michigan. This possibility was opened by the second Michigan Constitution, which was approved in 1850. Article 7, sec. provided that "civilized Indians" could become citizens by renouncing their membership in tribes.

Though few Indians opted for Michigan citizenship and even those who did were not U.S. citizens, some Michigan Indians enlisted in the Union army and fought in the Civil War. The most famous Indian unit was Company K of the First Michigan Sharpshooters, composed of Ottawa from Little Traverse Bay led by G. A. Graveract, a *Métis*. The company fought bravely at The Wilderness, Cold Harbor, and Petersburg, but was celebrated for its role in the fighting at Spottsylvania on May 9, 1863.<sup>8</sup> Assigned to protect Union cannon,

these Ottawa soldiers withstood charge after charge, taking withering fire from Confederate forces. Both Lieutenant Graveraet and his father, the Bear River band chief *Mankewenan*, were killed along with a large number of men; several were taken prisoners.<sup>9</sup> In vicious hand-to-hand fighting, these Ottawa warriors effectively used their ancient war cries to foment panic in the Confederate ranks.

### Learning English—The Language of Civilization

When the chiefs and headmen of the Ottawa and Ojibwa met with George Manypenny and Henry Gilbert to negotiate the Treaty of Detroit in 1855, they inquired about the disposition of the money set aside in the treaty of 1836 to educate Indian young people. Assagon replied that it had been paid directly by the U.S. Treasury to the missionary societies that ran schools at Sault Ste. Marie, Grand Traverse, and Grand Traverse bays, and the Ottawa colony and Grand Traverse School on the Grand River. Chief Assagon later told the treaty commissioners

My Father in the treaty of 36, you [the United States] appropriated a certain amount for a school fund. I suppose you have since given it—given it to our schoolmasters. But here are your children—might expect to be benefited by it. Here are boys who have learned enough from those schoolmasters to say in English, "Give me a drink of water." It is our desire that when you come to pay our annuities you will bring the school money with you so that we can pay it ourselves. We want to hire our own schoolmasters and then if they do not suit us, we can send them away.

The treaty of 1855 contained \$80,000 to be distributed over a ten-year period for a school system to be run by the government in consultation with the Ottawa and Ojibwa. The church-run day school system was largely scrapped and a day school system was developed. This school system was not just new for Michigan; it was one of the first experiments in large-scale public education anywhere in the world. In many areas the government system that emerged after Michigan's public schools that, thanks to innovative management, funding, and teacher training, were among the best public schools in the United States. By 1863, government-run day schools

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operating in most Indian communities. In fact, the Mackinac Academy became a national model for this approach to Indian education. Thirty of the forty-eight Indian schools in the United States were in Michigan. These schools were so good that many non-Indian parents chose to send their children to the Indian schools in preference to public schools.<sup>11</sup> By 1880, the vast majority of Michigan Indians were bilingual.

Regrettably, however, the day school system was deemed a failure by the government and the substantial public lobby that had developed to promote "Indian civilization." A leader among these "friends of the Indian" and Secretary of Interior in the Hayes administration, Carl Schurz, voiced the main complaint: "With the exception of a few hours spent in school, the children remained exposed to the influence of their more or less savage home surroundings, and the indulgence of their parents greatly interfered with the regularity of their attendance and with the necessary discipline."<sup>12</sup> Another problem noted by the liberal reformers had to do with language. Many of the day schools were taught in Ottawa, Ojibwa, or Potawatomi, the dialects of the home. J. D. C. Atkins, commissioner of Indian Affairs from 1885 to 1888, set out to solve this "problem." He saw it, "To teach Indian school children their native tongue is practically to exclude English, and to prevent them from acquiring English. This language which is good enough for a white man and a black man, ought to be good enough for the red man."<sup>13</sup> The obvious solution seemed to be to remove Indian children from the home, where their education could not be carefully controlled.

In 1887, the government returned to the boarding school system and, thus, ushered in a program of ethnocide that had a profound impact on Indian culture. In twenty-five years, the boarding schools accomplished what armed force, starvation, disease, loss of land, and Christianity could not—a major and irreversible disruption of Indian culture. It also effectively prepared Indian young people, not for assimilation into middle-class America, but as laborers in American fields and factories.<sup>14</sup>

Three boarding schools were operated in Michigan: the Catholic Church opened schools at Baraga in 1887 and Holy Childhood at Harbor Springs in 1889, and the government opened the Mt. Pleasant Boarding School.<sup>15</sup>

The Bureau of Indian Affairs School at Mt. Pleasant, which oper-

ated until 1933, offered eight years of education and enrolled 200 to 375 children. Professor Alice Littlefield has interviewed Indians who attended the school and was able to draw a comprehensive picture of student life.<sup>16</sup> Like other government boarding schools, it was run in a paramilitary fashion. Students were required to wear uniforms and march to and from school activities. Students not only attended classes to learn English and arithmetic, but also worked on the school farm, bakery, or laundry to learn the "habits of civilization," that is, punctuality, persistence, and attention to detail. One student, for example, learned "to bake bread and then to place it on a plate in a neat attractive manner."<sup>17</sup>

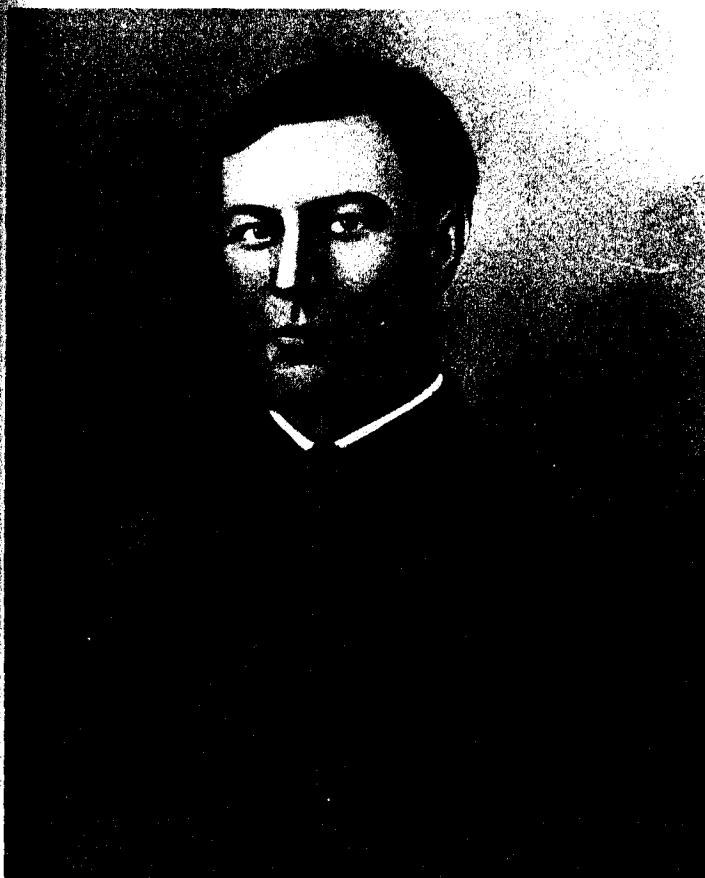
Discipline was harsh for infractions of rules, and, because the students came from impoverished homes, they were lucky to return home during the three-year period of required attendance. During the summers, students were "outed" to non-Indian families, where they practiced domestic and farm skills for fifty cents to one dollar per week plus room and board. It is little wonder runaways were common; the children were completely isolated from their home communities. That was, of course, the purpose of the boarding school.

Much emphasis was placed on sports, and Mt. Pleasant athletes excelled, usually beating non-Indian opponents. These victories became a source of pride and identity for not only the students but also the Indians throughout the state.

It is clear from the curriculum as well as the work histories of former students that Mt. Pleasant prepared students to enter American society on the ground floor, as agrarian laborers and domestics. At the turn of the century, the lumber, mining, and fishing industries were booming in the northern Great Lakes and the demand for cultural labor was very high. This demand peaked, however, after World War I, and thereafter declined dramatically in the north with the bust of extractive industries and in the south with the decline of the small, family farm. Boarding school young people had not been well prepared for a declining and very competitive labor market. Furthermore, their newly acquired skills had few applications in the factories of Michigan's emerging urban manufacturing centers.

Perhaps ironically, many of today's tribal elders who were students at the Mt. Pleasant boarding school have good memories of their experience. Many were happy for the relief the school provided.

Graduate  
Carlisle  
Photo  
Indians



Graduation picture of Robert Davenport in the uniform of the Carlisle Indian School, Carlisle, Pennsylvania, 1911.  
(Photograph courtesy of the Little Traverse Bay Bands of Odawa Indians.)

In 1900, only 246 Indian pupils attended public schools nationwide as compared to 22,124 enrolled in government schools, but by 1920, the public schools claimed 30,858 Indian students with 25% in government schools.<sup>19</sup> Clearly, the trend toward public education as well as changing labor requirements put an end to the government boarding schools. In 1933, the State of Michigan assumed ownership of the Mt. Pleasant school in exchange for agreeing to educate all children in the public school system. The Mt. Pleasant school became a children's reformatory; unfortunately, few modifications were needed.

If the process of land allotment as outlined in the treaties at Sault Ste. Marie (1854) and Detroit (July 31, 1855, and August 2, 1855) proceeded as expected, within a decade Michigan Ottawa and Ojibwa Indians would have been settled on family farms to be owned outright. As envisioned, they would have owned hundreds of thousands of acres and would be viable producers in the American economy, soon to be completely assimilated into American society. This idealistic vision was not to be.

The first problem was simply bureaucratic delay. Lists of Indians had to be drawn up, and the land selected by each from land set aside for that purpose had to be described and entered with the Indian Bureau's Washington office. Certain temporary deeds had to be sent back and selections received from the local county. After the appropriate period of time, the permanent patents (initial deeds from the U.S. government)



issued. This required the cooperation of the Indian agent, the Bureau of Indian Affairs, the General Land Office, State Land Registers, and county Registrars of Deeds. The process was complex and created a huge margin for error. Of course, the disruption of the Civil War also accounts for some of the delays and confusion. However, the most common problem was the different spellings of the name of the same Indian person, a fatal flaw on a legal document. It turned out, the Ottawa did not receive certification of ownership on their selections until 1870, for the Saginaw Ojibwa it was 1872, and 1875 for the Ojibwa of Lake Superior. Periodic delivery of patents continued for the next twenty-five years or more. A process that was to have taken ten years took four times that long in some cases.

These delays resulted not only in questions about the legal status of the ownership of Indian land selections, but soon produced a clamor from whites who were waiting anxiously to buy unselected lands that, in some cases, were to be returned to the open market. This latter problem was not so critical for the Lake Superior Ojibwa or for the Saginaw Ojibwa because their selections were to be made within bounded reservations over which the government could exercise some control. The Ottawa and Ojibwa of western Lower Michigan and the eastern Upper Peninsula had no such protection.

In an attempt to placate the settlers and to give Indians land who did not qualify under the July 31, 1855 treaty, for example, widows and people who had become twenty-one years of age since the treaty, Congress passed a special Indian Homestead Act in 1872 (*U.S. Statutes at Large*, 18:516). Under the provisions of this act, the Ottawa and Ojibwa had six months to select up to 160 acres of government land. This they had to improve and occupy for five years and, after these conditions had been met, a patent would be issued. Of course, the idea of "homesteads" was totally alien to the Indian understanding of land tenure, which required seasonal movement, and most did not know what was meant by "improvements." Nonetheless, at the urging of the agents, some Indians claimed land under the act, which actually functioned to open more land for white settlement.

In the meantime, several other problems arose to complicate the land ownership issue, the most important being the ambiguous status of Indians under the law and as citizens of Michigan. The practical

### Charlotte Kawbawgam

In 1845 *Madjigizik* (First Light of the Day), a member of the Copper River band of the Lake Superior Ojibwa, led an American exploration party to a huge iron deposit near modern Negaunee, Michigan. In return for his services he received a slip of paper promising a share in the Jackson Iron Company, which mined the ore. *Madjigizik* never pressed his claim, but when he died his daughter, Charlotte, went to court to establish her interest in the company. By this time, in 1864, Charlotte was married to Charlie *Kawbawgam*, the first chief of the town that was to become Marquette. Charlotte's case took many years to litigate and went to the Michigan Supreme Court three times before it was settled in 1889. Although she eventually won recognition of the legitimacy of her claim, she was never able to collect a monetary award from the now bankrupt corporation she so tenaciously fought for.

Charlotte's otherwise rather obscure claim under Michigan law had two further impacts, one legal and the other literary; neither, unfortunately, of much benefit to Charlotte, who was now living in near poverty and growing blind at Presque Isle, the Indian town on the outskirts of Marquette. From a legal standpoint, her case established an important precedent.

One of the key issues raised by the *Kawbawgam* case was whether or not Charlotte was the legitimate legal heir of *Madjigizik*. The Jackson Iron Company insisted that, since her father had two wives, Charlotte, as the daughter of the second wife, was not a legitimate heir because her father had not formally divorced the first wife before marrying Charlotte's mother, Susan. Charlotte, now joined in her claim by the son and granddaughter of *Madjigizik*'s first wife, *Odon*, argued that, under traditional Indian marriage practices, all children of polygynous marriages had equal standing.

In its final decision, the Michigan Supreme Court sided with Charlotte. Indian tribes, they said, were not governed by the laws of Michigan, because treaties recognized tribes as sovereign entities with the right of regulating their own social relationships, including formal marriage and inheritance. The court also pointed out that treaties explicitly recognize that the rights of treaties survive the passage of time through inheritance within the Indian system. Thus, *Charlotte Kawbawgam* forced the recognition by state courts of the legitimacy of customary marriage and the full legal rights of the offspring.



Charlotte Kawbawgam and her daughter Mary. Marquette, Michigan, circa 1875. (Photograph courtesy of the State of Michigan Archives.)

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marriages. Charlotte remained true to her own beliefs and sense of justice. She did not give in to the power of a huge corporation and was not intimidated by the judicial system of Michigan. She persevered and, in the end, she won not only her point but established a legal precedent important in American law.

Charlotte did not win true fame until long after her death in 1904. In 1965, Robert Traver (John D. Voelker) published the story of her legal struggle. His book, *Laughing Whitefish*, though considerably ro-  
manticizing Charlotte and the events of her life, is a fascinating ac-  
count of early Marquette and the case of *Kawbawgam v. Jackson Iron  
Company* (49 Michigan 39; 50 Michigan 578; 76 Michigan 498). It is  
recommended as a good piece of historical fiction and Michigan litera-  
ture.

and important application of this question related to the ability of local government to tax Indian land holdings. In 1850, the Michigan Constitution provided a citizenship option for "civilized Indians" who wished to renounce their tribal status. The treaty of 1854 and the two treaties at Detroit in 1855, in fact, all contain clauses dissolving tribal organization. The chiefs had absolutely no problem with this provision when it was suggested by the government because the tribal organizations had been a fiction of the federal government from the beginning.

The question of the jurisdiction of the state and federal governments over Indians became increasingly controversial. For example, Congress passed many laws trying to protect Indians from being exploited by traders and whiskey vendors who preyed on Indians by controlling commerce in "Indian country." The definition of "Indian country" has been modified over the years, but, as early as 1856, the Michigan Supreme Court rejected the notion that a ceded land within the boundaries of the state was "Indian country."<sup>21</sup> This effectively confined federal jurisdiction to the land reservations or over allotted Indians outside them. The federal government did declare that Indians were not eligible for the draft, but did they have to abide by state hunting and fishing laws because they were not citizens of the state. Michigan, anxious to claim Indians as citizens, cited the state constitution of 1850 as providing the opportunity for "civilized" Indians to become citizens by renouncing their allegiance. As a practical matter, after the Civil War, most Indians did consider themselves to be members of Indian bands, but many Michigan citizens and many voted without opposition from state authorities.

In 1871, Congress ceased to deal with native Americans on a government-to-government basis, treaty making was discontinued (*U.S. Statutes at Large*, 16:566), and Indians were officially regarded as "domestic and dependent nations." In fact, the situation in Michigan, like those in the rest of the United States, was governed by no consistent body of law or clear authority. In 1872, Congress provided Indian police to keep order, but did not extend federal jurisdiction for serious crimes until 1885, when the Major Crimes Act mandated trial in federal court in cases of murder, manslaughter, arson, burglary, and larceny by Indians (*U.S. Statutes at Large*, 23:385). As a further complication of citizenship and



Ojibwa camp near Marquette, 1864. (Photograph courtesy of the State of Michigan Archives.)

Section 6 of the General Allotment Act of 1887 made all allottees U.S. citizens "without prejudice to tribal status."

In this confusion it was to the clear advantage of local governments and local citizens to extend citizenship so that Indian land could be taxed, and this was done, often despite assurances given by agents that the Indian land owners did not have to pay taxes. At the same time, Michigan strictly enforced the occupancy and improvement conditions of the Homestead Act.

The combination of the ambiguity of citizenship, the lack of legal protection, the corruption and incompetence of agents, limited English literacy, and the fact that Indians had no meaningful access to the courts proved a disaster. American citizens took the opportunity to defraud hundreds if not thousands of Indians of their allotments and homesteads. Agent George Betts, a former Methodist preacher, was at the center of one scheme of timber and real estate fraud that resulted in the loss of thousands of acres of Indian land on the Isa-

bella Reservation. Though he was eventually discharged and prosecuted, the most valuable land was lost and distrust for officials was imprinted on the minds of the Saginaw Ojibwa. Likewise, in the western part of the state, L. H. Jennings, the son of the receiver of the U.S. Land Office at Ionia, was involved in several schemes to defraud Indians. His father was dismissed, but the Jennings were never prosecuted.<sup>22</sup>

It should not be inferred that the government always stood idly by as Indians were exploited. Bett's replacement, George Lee, was a decent man who tried his best to protect his Indian charges. Unfortunately, during the mid-1870s, the entire Indian Bureau was riddled with corruption.<sup>23</sup> Little help was forthcoming from Washington, but Special Agent E. J. Brooks, a clerk in the General Land Office, was assigned to investigate charges of land fraud in Michigan. Together, these two men documented what was certainly one of the most despicable episodes in Michigan history. Their records show how Michigan's Ottawa and Ojibwa were cheated from tens of thousands of acres of land, millions of dollars' worth of pine timber, and a chance for a decent future.<sup>24</sup>

Among the many techniques used to separate Indians from their land was the collateral scam. Cheap sewing machines or parlor organs might be sold to Indians on credit, using their land as collateral. When payments were not forthcoming, the goods were repossessed and the land seized for payment. Loan sharking, in which land was held as collateral against a repayment schedule, was particularly common because Indian homesteaders were often desperate for money to make the required improvements. One man in Mason County, Michigan, got an entire township, thirty-six square miles, by borrowing on twenty-dollar loans.<sup>25</sup>

Indians were often taxed off their land in schemes that involved collusion between real estate "investors" and public officials. In 1877, in the Little Traverse region, Indians were taxed at the rate of \$32.85 on each unimproved eighty acres, twice the amount levied on non-Indians. A local official in Emmet County promised that the rate would keep increasing until the community had "relieved itself of the presence of Indians."<sup>26</sup> If taxes were not paid, which frequently were not on the advice of agents, notice would be published in an English-language newspaper and the land put on the market for back taxes.

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Another method of land fraud was to invalidate Indian homestead claims by alleging that the residence or improvement requirements were not met. This was nearly a foolproof way of getting land, because Indians did not know how to acquire the protection of the law and could not afford attorney fees if they did. The case of Lucy Penaseway, an Ottawa widow with four children, serves as an example. Having filed a homestead claim at the Traverse City Land Office, Mrs. Penaseway cleared a field and garden, planted fruit trees and strawberries, and built a house and an outhouse. In the summer of 1876, she and her children left their farm to pick blueberries, which they would sell door to door in Traverse City. This was one of the few sources of cash income available to Indian women and vital to the operation of her homestead. While she was away, William Thompson bribed a land office clerk to advertise the property as abandoned, and, when she did not enter a formal objection, Thompson claimed her property as a homestead himself. When Mrs. Penaseway and her children returned they found their garden and orchard plowed and all proof of their improvements destroyed.<sup>27</sup> Agent Lee protested vehemently about this case, but the government did nothing. Thompson stripped the Penaseway homestead of pine timber and abandoned it five years later.

William Gribb, a cultural geographer, has made a parcel-by-parcel investigation of the fate of land allotments made under the Treaty of July 31, 1855, in Leelanau County. Of the six townships set aside for Indian selections, about 30 percent was unavailable because it was either claimed by the federal government as school sections or by the State of Michigan under the Swamplands Act. When selections were made in 1856 and 1857, 93, or 12 percent, had to eventually be reentered because of administrative mistakes. As a result of these and other problems, certificates of Indian selections were not issued until 1864. President Grant did not sign the patents for the Grand Traverse Band until July, 1872, when 304 patents were issued for over twenty thousand acres, or about 32 percent of the land available for selection. On the average, Indian allottees were able to retain their land for an average of only 6.3 years. In fact, almost 7 percent of the land was sold within the first six months. Within twenty years, Indians of the Grand Traverse band held less than one hundred acres, most located around the small community of Peshawbestown on Suttons Bay. Although some of the original twenty thou-

sand acres passed to whites for back taxes, the vast majority was on warranty or quit claim sale. Many of these sales involved fraud, one indication being the price paid per acre. On the average, when land transferred from Indians to whites, \$4.50 was paid per acre while the average was \$6.95 per acre when the sale involved whites only. Gribb found that most of the allotted lands eventually went to sixteen individuals either for their own use or for timber and real estate speculation. Prominent among these were two members of the Grand Traverse band, Frances Blackman and John Ahgosa. These men on their own or, more frequently, representing Chicago real estate speculators were able to "acquire" most of the allotments that went to widows, the elderly, and disabled Indians who were desperate for cash.<sup>28</sup>

The case of land loss among Indians of the Grand Traverse band is typical of other areas of the Great Lakes region. The net result was that the Indians were often without property and they began to concentrate and form villages on the few lands that they still retained. Often, these were lands purchased in common or by chiefs or missionaries for the collective use of a group. As they moved to these small refuges, band integrity began to break down; the identity that remained was tribal and community centered. Thus, people would have said they were Ottawa from Middle Village or Ojibwa from Nahma.

Fortunately, the last several decades of the nineteenth century and the first decade of the twentieth century were times of high demand for labor. In the north, Indian men became skillful lumberjacks and were also employed extensively in the fishing industry. In the south, wage work in agriculture was available. In the trade of reciprocal exchange, wages and other resources continued to flow freely between kin. This was so often the case that some agents, such as J. Mahon at the Red Cliff reservation near Bayfield, Wisconsin, paid Indians doing government work on the reservation in cash since he believed cash payments encouraged the ambitious and supported the lazy and goods were less easily transferred than cash.

At the turn of the century, the natural resources of northern Michigan were almost depleted and complex machinery was already reducing labor requirements in mining and agriculture. Indians were ill-prepared to compete with whites in this diminishing labor market. Lack of language skills, little formal training in the use of machinery

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