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After the Storm

Ojibwe Treaty Rights Twenty-Five Years after the Voigt Decision

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In April 2009, when Ojibwe tribal members Neil and Chris Peterson traveled to Trout Lake to spear walleye pike in a centuries-old tribal tradition, the boat landing was quiet.¹ There were no rock-throwing crowds, no gauntlets of angry demonstrators to walk, and no television reporters to dodge. No one attempted to swamp their boat. Absent were signs that read “Save a Fish, Spear an Indian.”

Twenty-five years ago, when Ojibwe spearfishers, like the Peterson brothers, attempted to harvest their walleyes, northern Wisconsin boat landings were battlegrounds of chaos and violence. The struggle involved the exercise of hunting, fishing, and gathering rights reserved in three mid-nineteenth-century land cession treaties the Ojibwe negotiated with the federal government. In 1974 the Ojibwe initiated a successful lawsuit against the state of Wisconsin, arguing that the state had systematically suppressed those rights throughout the twentieth century. However, when the modern Ojibwe walleye harvest began in 1985, angry mobs attempted to prevent tribal spearers from exercising their treaty rights in what one tribal member described as a “war-like, siege-like occupation.”²

It became clear to the Ojibwe that opposition to their court-affirmed treaty rights was not limited to the recent actions of treaty opponents in northern Wisconsin. It was part of an ongoing nationwide struggle typified by the “fish-ins” of the 1960s, when Indian nations in the Northwest reaffirmed their treaty fishing rights along the Columbia River. As in the Northwest, antitreaty groups in Wisconsin, Michigan, and Minnesota failed to understand that when tribes ceded land and retained off-reservation harvesting rights on those lands and waters, they had estab-

lished contractual obligations with the United States. This failure to acknowledge that the age of a contract does not impact its validity laid the foundation for ongoing conflict throughout the Great Lakes region in the coming decades. In 1999 the struggle culminated in the US Supreme Court's affirmation of Ojibwe treaty rights in its historic *Minnesota v. Mille Lacs* decision, a judgment legal observers described as a clear victory for proponents of Indian sovereignty.

This article examines the socioeconomic, political, and cultural factors that contributed to the spearfishing crisis twenty-five years ago and the state of relations between Native and non-Native residents in the ceded territory today. It focuses on Wisconsin, where the most virulent protests occurred. Because most residents learned about the controversy through newspaper and television news accounts, the article pays special attention to media coverage of the boat landing struggles. It argues that the relative calm that exists today is attributable to increased public awareness about treaty rights and sovereignty, largely due to education efforts and better reporting by the media. It also argues that the contributions of the Ojibwe bands themselves over the past twenty-five years to maintain and improve the natural resources within the ceded territory has also had a positive effect.

Today, few would describe Wisconsin as the "Mississippi of the North," as the national media did twenty-five years ago.³ The boat landings are silent. The walleye resource has remained stable. Tourism has not collapsed, as treaty opponents had predicted, and nearly all counties within the ceded territory have seen growth rates in per capita income that far exceed that of the state as a whole.⁴ Concepts like "treaty rights" and "Indian sovereignty" no longer elicit feelings of panic. Although some tribal members suggest that the bigotry that fueled the violent protests twenty-five years ago still lurks under the surface, most agree that overt racism is gone.

THE TREATIES

The contemporary struggles had their roots in four treaties signed in 1836, 1837, 1842, and 1854 in which the Ojibwe ceded millions of acres in the Great Lakes region. Historian David Wrone estimated that the treaties brought to the United States about 170 billion board feet of timber, 150 billion tons of iron ore, and 15,000 lakes as well as rivers, ports, and

power sites.⁵ In exchange, the Ojibwe insisted upon the right to hunt, fish, and gather on the land they were forced to relinquish.

Once the states of Michigan, Wisconsin, and Minnesota were carved from the ceded territory, government officials in those states assumed they had the right to exert authority over all inhabitants, Indians and non-Indians. They presumed that statehood precluded rights secured by treaty and arrested tribal members who ventured off-reservation to hunt, fish, and gather. The exercise of treaty rights became an underground activity.

STORMY WATERS ON THE GREAT LAKES: 1962–1985

In the early 1960s in Michigan, the decision to transform the Great Lakes fishery from a fishery serving both commercial and sports user groups to one serving primarily sport fishing interests laid the foundation for treaty rights battles and social unrest. In 1962 Michigan unilaterally gave lake trout “sport fish” status and in 1966 began stocking nonnative salmon “exclusively for sport fishing.” Over the next decade, it imposed regulations that reduced the number of commercial fishermen and prohibited the use of gill nets. In 1965 William Jondreau, a Keweenaw Bay Ojibwe, was arrested for “illegally possessing” four lake trout netted from Lake Superior and convicted, a conviction overturned six years later by the Michigan State Supreme Court.

Two other cases, *Gurnoe v. Wisconsin* (1972) and *United States v. Michigan* (1981), tested states’ authority to restrict tribal commercial fishing. Both cases resulted in victories for the Ojibwe. However, as the Ojibwe reasserted their Great Lakes fishing rights, they were met with an anti-treaty backlash. Tribal fishermen experienced logs and rocks blocking their access to boat ramps, nails placed to puncture truck and trailer tires, sand poured in gas tanks, attempted boat swampings, and rifle shots.⁶

Dwight “Bucko” Teeple described incidents in which vigilante groups walked the beach looking for tribal members exercising their treaty fishing rights.

Sometimes they would find some of our guys, particularly the older guys that couldn’t run or hide well, [leading to] some sad stories. One of the older guys had a wooden leg. He was caught on the beach by the vigilantes, and they gave him a good roughing up, tore off his leg and threw it out into the water. They even went

so far as to take photos of some of our guys that were out fishing in small boats. They'd take photographs of those guys and they made up wanted posters, pictures of Bay Mills guys, and have them posted at different launch sites saying, "Wanted Dead or Alive."⁷

YEARS OF VIOLENCE IN WISCONSIN: 1985–1991

Although antitreaty opponents insisted that race was not a factor in the struggle, signs displayed at the Wisconsin boat landings suggested otherwise. One man carried a placard that read: "Hay [*sic*] Tommy T, our North Timber is for Timber Wolves not TIMBER NIGGERS."⁸ A tavern in Medford, Wisconsin, posted a flyer advertising "The First Annual Indian Shoot," which offered five points for a "Plain Indian" and seventy-five points for a "Sober Indian."⁹ A menacing poster of a gun with the caption "Spear This" appeared in the windows of local bars and businesses (fig. 1).

Yolanda St. Germaine, a Lac du Flambeau tribal spearer, described a terrifying night on Catfish Lake during which she and her brothers were shot at and had the windshield of their car broken. "Whistles—they'd blow and sirens . . . and calling you a fucking squaw." These incidents, along with the rock throwing, boat swamping, and pipe bombings, prompted St. Germaine to ask: "Is this really about fish?"¹⁰

Both the Ojibwe and treaty opponents blamed the media for inflaming the struggle. Television news in particular tended to focus on the conflict rather than the underlying legal and environmental issues that produced it and rarely mentioned tribal sovereignty. Mainstream reporters struggled to understand concepts like treaty rights and tribal self-determination and consistently made factual blunders and errors of interpretation.

The first wire account, announcing that the United States Court of Appeals for the Seventh Circuit had ruled in favor of the Ojibwe, bore a headline that read: "Court Gives Unlimited Fishing Rights to Indians" and was wrong on three basic facts.¹¹ First, the court did not "give" the Ojibwe their treaty rights. These were rights the Ojibwe reserved for themselves in the three cession treaties. The court merely affirmed the rights. Second, the rights were not "unlimited." They were specific to the ceded territory and contingent upon a complex set of court-imposed standards to protect the fishery. Third, the rights did not extend to all

(This "poster" was found in an Eagle River bar and also seen on car windows at boat landings. It's a clear picture of the violence associated with the protest of treaty rights.)



Fig. 1. "Spear This" poster. This image was found in an Eagle River bar and also seen on car windows at boat landings. Reprinted from *Moving beyond Argument: Racism and Treaty Rights* (Odanah, WI: Great Lakes Indian Fish and Wildlife Commission Public Information Office, 1989), 7.

Indians; they involved only the Ojibwe bands that signed the 1836, 1837, 1842, and 1854 treaties. This lack of understanding resulted in racial harassment by treaty opponents against the Menominee and other non-spearfishing Indian nations in Wisconsin.¹²

News coverage of the spearfishing dispute carried four primary frames, three shaped by antitreaty opponents and one articulated by treaty supporters. The antitreaty frames included the following points: (1) the Ojibwe would take all the fish and create an economic crisis for whites who depended upon tourism for their livelihood; (2) spearfishing during the spring spawning season was unsportsmanlike and would harm the fishery; and (3) federal courts had "given" the Ojibwe "special rights" to spearfish.¹³ In contrast, the dominant protreaty frame that surfaced was that the protests were motivated by racism. The following section explores the underlying issues that formed the basis for these frames.

ECONOMIC STAGNATION AND ENVIRONMENTAL DECLINE

The National Bureau of Economic Research (NBER) identified two distinct recessions for the US economy during the early 1980s just prior to

the January 25, 1983, court of appeals ruling reaffirming Chippewa off-reservation treaty rights.

During this period, Wisconsin's January unemployment rate increased from 4.9 percent in 1980 to 11.7 percent in 1983.¹⁴ Some policy analysts, including Todd Berry of the Wisconsin Taxpayers Alliance, observed that the economic downturn had a crippling effect on tourism in northern Wisconsin.

And so you take that as a backdrop, a very weak state economically—long lines of people wanting jobs outside factories in Milwaukee. Factories closing—we lost one seventh of our manufacturing jobs. Now place that over northern Wisconsin, which has always had a seasonal economy, always been challenged economically. And now one of the key industries, tourism, is going to take a hit because the rest of the state and Chicago and the twin cities is in a really deep recession.¹⁵

Historically, northern Wisconsin has depended upon three major industries: agriculture, wood products, and tourism. Each of these economic sectors experienced significant restructuring in the years prior to and during the implementation of court-affirmed treaty rights. Between 1959 and 1997 Wisconsin saw a net loss of roughly three-fourths of its dairy operations.¹⁶ From 1979 to 1982 timber jobs in Wisconsin decreased nearly 20 percent, while jobs in construction dipped more than 15 percent.¹⁷ These declines contributed to the economic malaise in northern Wisconsin just as tribes began implementing off-reservation treaty rights. It was the tourist industry, however, that underwent the most dramatic change.

The area's seasonal economy is primarily driven by summer visitors who enjoy its many lakes, dense forests, and pleasant temperatures. In the 1970s a growing number of these visitors began to stay, buying second homes, a phenomenon that changed the economic and environmental character of northern Wisconsin. The new housing boom created a dichotomy between the year-round residents who struggled economically and the more affluent summer residents.¹⁸ A serious consequence resulted from second-home construction. Increased property values, upon which Wisconsin's shared revenue formula was based, meant that fewer state dollars were sent to northern counties to provide services to permanent residents. The federal tax code, which allowed de-

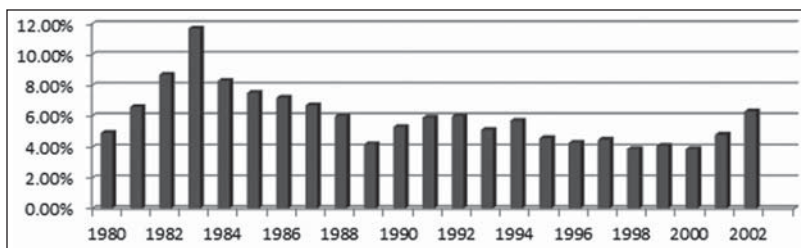


Fig. 2. Wisconsin unemployment rates, January 1980–2002, data from “Employment Trends in Wisconsin,” in 1995–1996 *Wisconsin Blue Book* (Madison: Wisconsin Legislative Reference Bureau, 1996), 662; *State of Wisconsin 2003–2004 Blue Book* (Madison: Wisconsin Legislative Reference Bureau, 2004), 672.

ductions for second-home interest, only widened the spendable-income disparity between full-time and part-time residents and exacerbated the problem.

In 1981 a tourism industry study by the Wisconsin Department of Development indicated that tourism was in a state of serious decline. Twenty-five percent of the resorts built before 1930 reported dwindling occupancy rates. Sixty percent of the state’s resorts were “rustic and completely oriented toward fishing,” even though less than 8 percent of Wisconsin tourists listed fishing as their primary reason for visiting the state.¹⁹ Trends were changing from weeklong “guys fishing” to shorter three-day family vacations. With the exception of powwows, which attracted a limited number of white visitors, tribal tourism was nonexistent.

Although these trends were in place before the decision in *Lac Courte Oreilles Band of Chippewa Indians v. Voigt* (the 1983 appeals court ruling affirming off-reservation treaty rights), many resort owners found it easier to blame spearfishing for their economic downturn, a cause and effect that news reporters accepted at face value.²⁰ “We’re gonna go down a big, black hole,” one resort owner exclaimed in a nationally televised CBS report, “and we’re never going to come back out.”²¹ Simple correlations belied complex problems. Not only were there fewer fishing tourists, the fishery itself was in trouble.

A joint fishery assessment of the ceded territory revealed that the resource was under tremendous pressure.²² The housing boom of the 1970s had taken its toll on inland lakes. Between 1960 and 1995 the total number of dwellings on 235 sampled lakes in northern Wisconsin, for

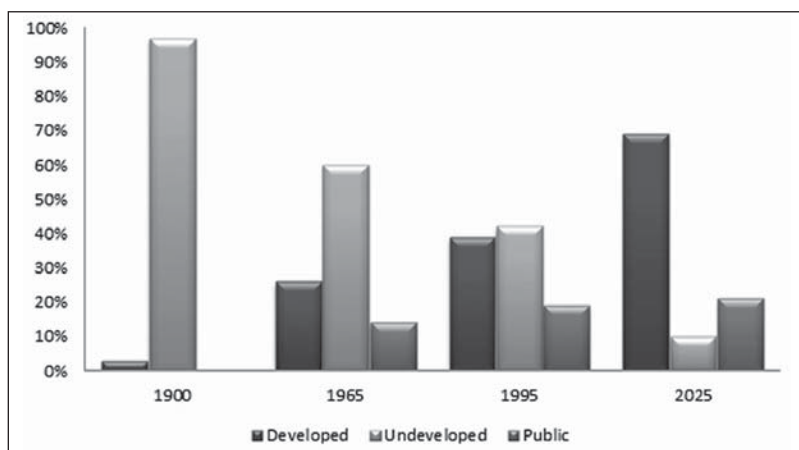


Fig. 3. Shoreland development trends for 235 northern Wisconsin lakes. Data from “Development Trends in Northern Wisconsin,” WDNR report, 1996, <http://www.dnr.wi.gov/org/water/wm/dsfm/shore/documents/developmenttrends.pdf>.

example, increased more than 200 percent, with medium-size to large lakes (500–900 acres) experiencing an 800 percent increase.²³ In an attempt to “improve” their property, homeowners filled in wetlands and removed submerged stumps and other fish cover to create swimming beaches. They routinely fertilized their lawns and battled the resulting algae blooms in their lakes with sulfates and arsenates.

In addition to the explosion of shoreline development, there were other negative impacts on the fishery. Hydroelectric dams, agricultural erosion, and industrial pollution had compromised the resource, as did acid rain, mercury, and polychlorinated biphenyls (PCBs).²⁴ Creel surveys conducted by the Wisconsin Department of Natural Resources (WDNR) during the 1970s and 1980s indicated that anglers were catching fewer fish.²⁵ In addition, there was increasing apprehension about whether the fish were even safe to eat. Mercury generated from coal-fired power plants and PCBs from pulp mills and industrial discharge began showing up in larger sport fish, leading the WDNR to issue health advisories.²⁶

The WDNR was so concerned about the state of its fishery that it warned that by 1985 the demand for walleye and muskellunge would exceed supply and that bag limits and size limits would need to be imposed.²⁷ “WDNR biologists confided to Minocqua town leaders in 1988 that the angling bag limit would need to be cut to two walleyes per day

(from the present five), *regardless of spearfishing*.”²⁸ That same year, the WDNR did, in fact, impose size and bag limits, but only on lakes the Ojibwe announced they would spear. The tactic was not lost on treaty supporters, who complained that the WDNR was using the Ojibwe as scapegoats.

In Wisconsin’s northwoods, home to a four-story fiberglass muskellunge and the Freshwater Fishing Hall of Fame, trophy fish are prized. It is a culture aptly described by Douglas Medin in his research on competing models of nature. The goals of sport fishermen, which emphasize “fair chase,” and the ethics of subsistence fishermen, who are guided by a “do not waste” principle, create an environment that invites misconceptions and conflicts over conservation.²⁹ News accounts that showed tribal members spearing fifteen-pound muskies inflamed anglers, who complained that spearfishing was “unsportsmanlike.” Few knew that spearers used this efficient harvesting technique to collect food for ceremonies and community gatherings and to help those who had no family members to provide for them. “We’re not fishing for sport,” a Lac du Flambeau tribal member stated. “We’re fishing to eat.”³⁰

One of the most explosive issues arose from the perception that the Ojibwe would “take all the fish.” Yet the disparity between the number of fish taken by anglers and the number taken by Ojibwe spearing for subsistence dramatically contradicted arguments that the Indians would deplete the resource. The WDNR estimated that anglers harvested 839,000 walleyes annually in the ceded territory between 1986 and 1989.³¹ During those years the Ojibwe took a *total* of 70,283 walleyes—about 2 percent of the angler harvest. Anglers took an estimated 39,500 muskellunges each year between 1986 and 1989. The *total* Ojibwe harvest over that same turbulent four-year period was 527 muskies, or less than 1 percent of the angler harvest.”³²

Prior to 1991, precise data about the fish angled from Wisconsin’s lakes were not known, since the state lacked a systematic method of collecting such information. Even with the adoption of a new statistical methodology, the state continues to rely on indirect methods—creel surveys and statewide mail questionnaires—to extrapolate estimates of angler harvest and catch rates. In contrast, the tribal harvest generates precise figures collected by creel clerks, biologists, and wardens of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), the natural resource organization created by the Ojibwe, who count each fish

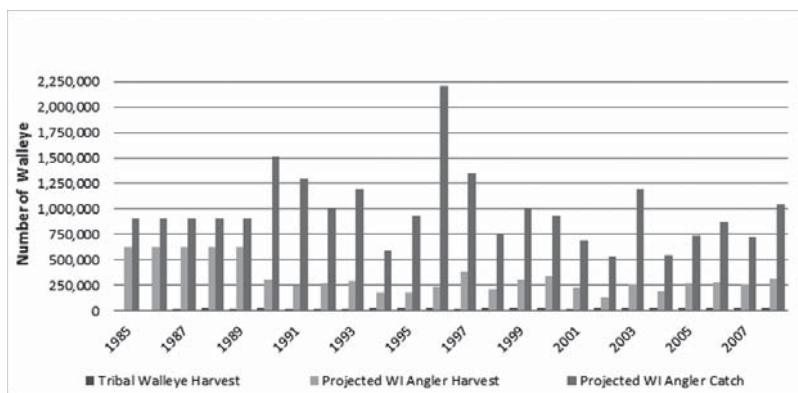


Fig. 4. Walleye harvest and catch rates in the ceded territories in Wisconsin. Data from U.S. Department of the Interior, *Fishery Status Update in the Wisconsin Treaty Ceded Waters* (Minneapolis: Bureau of Indian Affairs, 2010), 11, 12.

and weigh and sex a subsample of each catch taken by spearers during the tribal harvest.

The issue of harvesting fish during their spawning season violated a fundamental belief held by many sportsmen. “Conservation doesn’t know any race,” Tom Hook, who took part in a boat landing protest on Big Arbor Vitae Lake in 1990, declared in a television documentary report. “It doesn’t know white men or Indians. If the fish are spawning and should be left alone, they should be left alone by everyone.”³³

GLIFWC data, however, indicate that the tribal self-regulatory system was successful in protecting the walleye resource. The vast majority of fish speared are males, leaving the female fish to lay their eggs.³⁴ From 1985 to 2002 Chippewa bands harvested 407,607 walleyes, of which 340,465 were sexed. Of the 340,465 walleyes sexed, 84 percent were known to be males.³⁵ These numbers contradicted statements made by antitreaty opponents who claimed that tribal members were ruining the fishery resource by spearing all the large spawning female walleyes as they lay eggs. In contrast, creel surveys from one northern Wisconsin lake indicate the sex ratio of walleyes angled by non-Indians is about fifty-fifty.³⁶

Protection of the resource was central to a complicated set of safeguards imposed by the federal court. The WDNR determined the total allowable catch for speared lakes in the ceded territory, or the maximum number of fish that could be harvested without damaging the resource.

The total allowable catch amounted to 35 percent of the estimated walleye population in a given lake and 27 percent of the muskellunge.³⁷

The court then added a safety factor in which the population estimate is discounted (this varies but generally is about one-third) and multiplied by an exploitation rate of 35 percent. This produces the safe harvest level. The tribes set their quotas based on the safe harvest level—generally 60 percent or less. For example, if a lake, based on a one-year-old population estimate, has 2,000 walleyes, the safe harvest level would be 245 ($2,000 \times 35 \text{ percent} \times 35 \text{ percent} = 245$). At a 60 percent self-imposed quota level, Ojibwe spearers were free to harvest 147 fish, a number they never exceeded and seldom even approached in their actual catch. Mathematics, however, does not make for exciting television news. These equations usually were never explained in TV news reports, which generally focused on the conflict itself and speculated about the possibilities of violence.

Another dominant frame that surfaced in both the print and broadcast news coverage was the “unequal rights” the Ojibwe were presumed to have. The tribal walleye harvest usually began a week before anglers could legally fish. *CBS Evening News* anchor Bob Shieffer described this as the Ojibwe getting “a two-week head start with spotlights and spears only they are allowed to use.”³⁸

The concept of “reserved” treaty rights was not fully understood by many Wisconsin residents.³⁹ The Ojibwe likened their right to hunt, fish, and gather on the land they ceded to the right held by a non-Indian property owner who sells the mineral rights but retains the surface rights to his or her property. To antitreaty groups like Equal Rights for Everyone, however, the reserved treaty rights were “race-based,” special rights.

The dominant frame shaped by treaty supporters was that the actions of spearfishing opponents were motivated by racism. It was difficult to argue that race did not play a role in the dispute. The ubiquitous “Save a Fish, Spear an Indian” signs, chants of “timber nigger,” and references to Indian drunkenness in antitreaty literature suggested otherwise. Stop Treaty Abuse (STA), the antispearing group that organized some of the largest and most violent demonstrations against the Lac du Flambeau band, funded itself by selling “Treaty Beer”—a not-so-subtle commentary on a prevailing stereotype.

In a May 1989 television report, CNN reporter Jonathan Towers in-

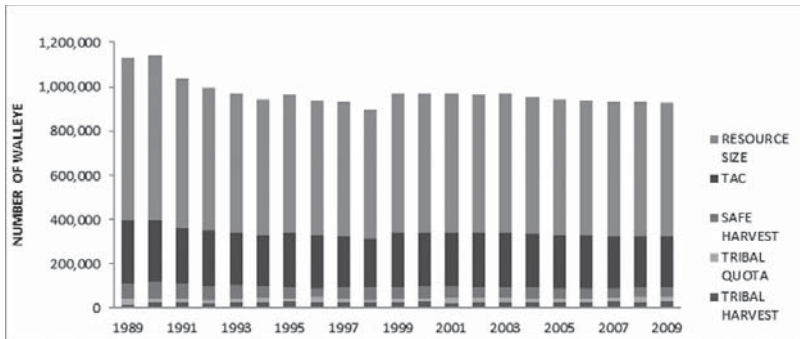


Fig. 5. Estimated overall size of the ceded territory walleye resource using models plus TAC and safe harvest levels from 1989 to 2009. Also shown are the tribal quotas selected and the number harvested during open-water spearing and netting during this time period. Data from U.S. Department of the Interior, *Fishery Status Update in the Wisconsin Treaty Ceded Waters*, (Minneapolis: Bureau of Indian Affairs, 2010), 9.

interviewed a protester holding the effigy of an Indian head on a spear. When asked what it meant, the demonstrator replied, “What do *you* think it means? Maybe it means I like Indians. Maybe it means I don’t like Indians. Maybe it means I don’t like them spearing fish” (emphasis added).⁴⁰ Another protester complained, “I’m paying taxes to support them every week—to support this [spearfishing], to send them welfare checks, to give them all different kinds of aid. That wasn’t in the treaty.” He continued, “If we’re supporting them in those ways, why can’t they learn to live like the white man does?”⁴¹

In truth, between 1975 and 1991 non-Indians fared much better than Indians with regard to federal per-capita spending on programs such as Aid to Families with Dependent Children (AFDC) and food stamps. Payments to non-Indians increased during that period, while payments to Indians decreased.⁴²

In a 1989 report, the Wisconsin Advisory Committee to the United States Commission on Civil Rights concluded that demonstrators were motivated by something other than concern over the fishery. “During hunting and spearfishing seasons in recent years,” the report stated, “physical threats and racial harassment of Chippewa Indians in northern Wisconsin have been commonplace.”⁴³

Each night during the walleye harvest, Ojibwe spearfishers and their families walked a gauntlet of racial slurs and taunts to the boat landings. Demonstrators banged on toy drums and delivered mocking chants of



Fig. 6. Protestor holding speared head. Photograph taken of antitreaty protestors at a Wisconsin boat landing during the spring Chippewa spear fishing season. Photograph by GLIFWC staff. Reprinted from *Moving Beyond Argument: Racism and Treaty Rights* (Odanah, WI: Great Lakes Indian Fish and Wildlife Commission, Public Information Office, 1989).

“*Hi* how are ya, *hi* how are ya.” They admonished the Ojibwe to “go back where you came from,” an irony not lost on the spearers. As the violence escalated, however, the Ojibwe complained that local law enforcement increasingly looked the other way.

In 1989 and 1990 racial harassment on and off the landings intensified. Political pressure mounted, and the legal costs escalated as the state legally pursued appeal after appeal.⁴⁴ The cost of crowd control skyrocketed. State reimbursement to local law enforcement agencies, who were called in to assist local police and sheriffs, topped \$1.7 million in one month alone.⁴⁵ However, reinforcements arrived in a form familiar to those in the civil rights movement.

TREATY SUPPORT GROUPS

In 1988 treaty supporters formed Witness for Non-Violence for Treaty and Rural Rights in Northern Wisconsin (Witness). Witness coordinator Rick Whaley declared: “We hoped to bring enough people north to prevent the extinguishing of Chippewa treaty rights because of mob violence and intimidation.”⁴⁶ They also brought their tape recorders and camcorders to document civil rights violations.

Other support groups emerged, including Honor Our Neighbors Origins and Rights (HONOR), Madison Treaty Rights Support Group (MTRSG), Midwest Treaty Network (MTN), Citizens for Treaty Rights (CTR), and many groups organized by churches. HONOR, formed by Lutheran Human Relations director Sharon Metz, was instrumental in launching a nationwide boycott of Treaty Beer. Dubbed "hate in a can" by the Ojibwe, Treaty Beer was a fund-raising vehicle used by STA-Wisconsin and STA in Washington State to subsidize antitreaty efforts.

The treaty support groups borrowed heavily from civil rights workers who registered black voters during the 1964 Freedom Summer. Several thousand witnesses underwent training and learned nonviolent strategies. They traveled in caravans to northern destinations, identified themselves by wearing white armbands, and collected information for use in police reports, court proceedings, and civil rights investigations.

In the spring of 1989 tension over treaty rights was at its worst. Lac du Flambeau tribal chair Mike Allen petitioned the state for better law enforcement, saying, "My people are suffering. We are under incredible physical and verbal attack."⁴⁷ Wisconsin governor Tommy Thompson responded by petitioning Judge Barbara Crabb for an injunction not against the protesters but against the spearers. Governor Thompson took the witness stand himself and argued that public safety was at risk.

Judge Crabb was never more direct in her response: "If this court holds that violent and lawless protests can determine the rights of the residents of this state, what message will that send?" In denying the petition, she added, "What kind of country would we have if the brave people [the southern civil rights movement] had not faced down the prejudiced, the violent and the lawless in the 1960s?"⁴⁸

By the spring of 1990 some local leaders began to realize that the violent protests against spearfishing had the potential to damage Wisconsin's tourism promotion efforts. A joint statement from eleven Chambers of Commerce issued during the Governor's Conference on Tourism in Madison encouraged cooperation and peace. The statement affirmed the legal rights of the Ojibwe, stating that "continued interference with the exercise of treaty rights threatens the social and economic balance of northern Wisconsin."

Not everyone supported the statement. In the town of Arbor Vitae, citizens threatened to withdraw \$10,000 appropriated for the Vilas County Chamber of Commerce. In other regions of the state, however,

tribes and local communities began to build relationships through cooperative fish stocking initiatives.

In the spring of 1991 two events played a critical role in the Wisconsin treaty rights controversy. On April 3, 1991, Senator Daniel Inouye, chairman of the United States Senate Select Committee of Indian Affairs; the state of Wisconsin; the United States Fish and Wildlife Service; the Bureau of Indian Affairs; GLIFWC; and six Wisconsin bands released *Casting Light upon the Waters: A Joint Fishery Assessment of the Wisconsin Ceded Territory*. This joint report concluded:

People concerned about the fishery resource of northern Wisconsin can be confident that it is being carefully studied and is protected. Chippewa spearing has not harmed the resource. Fish populations in the ceded territory are healthy. Three factors currently impact northern Wisconsin fisheries: 1) reaffirmation of the Chippewa Tribes as harvesters; 2) heavy angling pressure; and 3) continually changing environmental factors. As a result, popular fish species, such as walleye and muskellunge, are subjected to considerable stresses.⁴⁹

In March 1991 the Lac du Flambeau and WA-SWA-GON treaty association, with help from the American Civil Liberties Union, successfully petitioned Judge Crabb for a preliminary injunction against the STA. Her ruling specifically forbade group members from the boat landings or from taking any actions that would interfere with tribal spearing.⁵⁰ She warned that violators would be prosecuted under *federal* civil rights statutes and, if convicted, would face stiff fines and prison sentences. Another court action resulted in a fine of \$182,000 levied against STA leader Dean Crist.⁵¹

The antitreaty effort collapsed in 1991. The federal court injunction against the STA effectively immobilized the most militant protest group. Fear of being labeled racist kept others away. The media arrived on the boat landings only to find that the crowds were gone, so they left too. That same spring, Judge Crabb delivered her summary decision on Ojibwe treaty rights and gave the state and the tribes the opportunity to appeal. Both sides quietly declined. Seventeen years of litigation had ended in Wisconsin.

Two years later, however, the issue resurfaced in Minnesota, where the Ojibwe bands there, signatories to the same treaties as those signed

by the Ojibwe in Wisconsin, found their treaty-guaranteed hunting, fishing, and gathering rights under attack. In 1993 the Minnesota legislature rejected an agreement worked out between the Mille Lacs band, the governor, and the Minnesota Department of Natural Resources (MDNR). Over the next six years, the case, with implications for Ojibwe bands in Minnesota, Michigan, and Wisconsin, wound its way through federal and appeals courts and ultimately to the nation's high court.

In 1999 a conservative Supreme Court ruled in favor of the Ojibwe in the Minnesota case, delivering a definitive judgment that affirmed the treaty-based rights of the Ojibwe to hunt, fish, and gather in the territory they had been forced to cede. A costly twenty-five-year series of court battles was over. For Ojibwe in Wisconsin, Minnesota, and Michigan, it is quite clear that economics, environmental changes, and racial tension helped write the plot line in one of the most painful chapters in their history. Jim Zorn, executive director of the Great Lakes Indian Fish and Wildlife Commission, described the events surrounding off-reservation treaty rights as a "perfect storm" of socioeconomic factors:

I just think there was this perfect storm of the lack of knowledge of neighbor about neighbor; a perfect storm of deteriorating economics, based upon outmoded assumptions about tourist models; this changing natural resource population that was in flux even before the tribes began to exercise their rights outside their reservation boundaries. You put that together and you had this explosive atmosphere. You throw in racial animus and you have this perfect storm that was there and Wisconsin turned into something it hopefully wasn't.⁵²

THE ECONOMICS OF WISCONSIN'S CEDED TERRITORY TODAY

Northern Wisconsin remains an attractive but economically challenging place to live and work. The eighteen counties that comprise most of the ceded territory still lag behind the rest of the state in personal income.⁵³ Still, there are encouraging signs. The growth rate in personal income in the region is increasing at a faster pace than that of the state as a whole. Interestingly, in Vilas, Oneida, and Sawyer Counties, where spearing and the spearing protests were the most intense, growth rates are especially high.⁵⁴

Tourism in northern Wisconsin has held steady. In 2008 Wisconsin

tourism generated \$13.1 billion, which, despite a severe nationwide recession, represented a nearly 3 percent gain over the previous year.⁵⁵ The eighteen counties within the ceded territory generated \$1.6 billion of that revenue, a 3.4 percent increase from 2007.

In 2008 *Field and Stream* named the Minocqua–Arbor Vitae–Woodruff area—the epicenter for some of the most violent protests of the 1980s and 1990s—one of the top five places for anglers to live.⁵⁶ The American Sportfishing Association ranked Minnesota, Michigan, and Wisconsin among the top four states nationally for freshwater fishing retail sales. Together the three states generated more than \$5.5 billion and more than 84,000 jobs.⁵⁷ Wisconsin ranked second nationally as a destination for nonresident anglers, who spent nearly \$600 million in the state. Fears that spearfishing would keep anglers away and that the exercise of off-reservation treaty rights would ruin tourism and devastate the economy of northern Wisconsin were clearly unfounded.

A significant change in the tourism landscape is the emergence of tribal tourism. With a foundation in the gaming industry, tribes began exploring opportunities to diversify their economies and generate income from tourism. In 1997 the Great Lakes Intertribal Council formed a panel to explore cultural tourism and in 2003 received a federal grant to establish Native American Tourism of Wisconsin (NATOW). From cultural events such as powwows to destinations including museums, historic parks, and even a re-created Ojibwe village, thousands of non-Natives now visit Ojibwe communities.⁵⁸ “You can’t truly say you know Wisconsin,” the official state tourism website opines, “without knowing about the native cultures that have made their homes here.”⁵⁹

Despite encouraging economic figures in tourism and overall growth in northern Wisconsin, there are still problems in selected counties within the ceded territory and alarming trends regarding population growth, median income, and poverty rates. Ten of the eighteen Wisconsin counties that lie primarily within the ceded territory are losing population. In just one year (2007–8), for example, Iron and Price Counties lost nearly 10 percent of their population. Ironically, in that same period Vilas and Sawyer Counties—sites of some of the most intensive spearfishing during the 1980s—gained population (4.2 percent and 5.7 percent, respectively).

The average median income within the ceded territory is \$41,206, nearly \$3,400 less than the state average. In Ashland County, where

nearly 11 percent of the population is Native American, the median income is approximately \$9,000 less than the state average. Not surprisingly, 17.5 percent of Ashland County residents live below the federal poverty rate compared to 12.1 percent of residents within the ceded territory and 9.8 percent of Wisconsin residents as a whole. In comparison, the median income in Vilas and Sawyer Counties was \$41,184 and \$39,558, with poverty rates of 10.5 percent and 12.3 percent, respectively.

Of all the challenges residents in northern Wisconsin face, perhaps none is more complicated than the issue of sustainable growth. Communities must grow their economies and beckon more tourists while preserving the natural resources that attract those visitors. The rapid growth of seasonal and lakeshore homes threatens to upset that balance.⁶⁰

However, these challenges are not linked to the exercise of treaty-based hunting, fishing, and gathering rights. In fact, United States Census Bureau figures suggest that the most encouraging figures surrounding population growth, median income, per capita income growth, and lowest poverty rates have occurred in Wisconsin counties that experience the heaviest tribal walleye harvests.

THE ENVIRONMENT AND THE CEDED TERRITORY

Although there are concerns about environmental threats from shoreline development, mercury, industrial pollution, invasive species, and climate change, most tribal and state natural resource experts agree that Wisconsin's environmental quality of life remains strong. In a 2009 interview, former WDNR secretary George Meyer stated that the "close relationship" that has developed between WDNR and GLIFWC biologists is a positive result of the treaty rights issue because it resulted in "one of the most studied and most heavily protected fisheries in the world because of the joint efforts of both those organizations."⁶¹ Because of the court-mandated data collection associated with the *Voigt* decision, Wisconsin compiles more scientific evidence about its natural resources than any other state.

Despite data that clearly reveal that spearfishing has not damaged the inland fishery, many anglers remain skeptical. Research conducted by the Center for Limnology at the University of Wisconsin–Madison indicates that unspeared lakes attract a majority of anglers. Yet the same

research concludes that anglers are more likely to catch fish in lakes that have been speared than in lakes that have not been speared: "Catch rates for all anglers averaged 0.14 walleye on lakes with a two-walleye bag limit; 0.13 walleyes on lakes with a three-walleye bag limit; and 0.08 walleyes on lakes with a five-walleye bag limit."⁶²

A 1991 joint fishery assessment compiled by the Bureau of Indian Affairs, the US Fish and Wildlife Service, GLIFWC, member bands, and the WDNR also concluded that spearfishing had not damaged the resource. Updates in 1992, 1995, 1999, 2003, and 2007 reached similar conclusions. The reports outline interagency sharing of data, equipment, and workload and commit the involved parties to continued research and monitoring of mercury and other environmental threats. In response, GLIFWC has developed mercury maps to advise pregnant women and children about consuming fish from mercury-tainted lakes within the ceded territory, among other cartographic material accessible to the public.⁶³

Seven of the eleven member bands of GLIFWC operate fish hatcheries. In 2008 these operations produced 33 million fish, including 28 million walleye fry, 775,000 walleye fingerlings, 89,000 musky fry, and 4.2 million fish of other species (i.e., white sucker, lake trout, brook trout, rainbow trout, brown trout, lake sturgeon, and yellow perch). These fish are used for stocking on-reservation and off-reservation lakes within the ceded territory.⁶⁴

The number and production capacity of these facilities have increased since 1984, when GLIFWC was established. There are signs of success. The Lake Superior fishery is now managed on a sustainable basis, and the lake trout fishery in the Apostle Islands is no longer stocked. Lake trout are considered to have been restored to 80 percent of the historic levels before the invasion of parasitic lamprey.

Tribal biologists have paid particular attention to *manoomin* (wild rice), a food culturally significant to the Ojibwe and essential to mallards, blue-winged teal, ring-necked ducks, and other waterfowl. Wild rice also improves water quality by binding loose soils and acting as a windbreak across shallow wetlands. In that way, it improves water clarity and reduces algae blooms. GLIFWC works with member tribes, state and federal officials, and private organizations to protect and enhance ancient beds in Minnesota and Wisconsin. These remediation efforts include controlling wakes, maintaining water levels, and reseeded. In Minnesota, Michigan, and Wisconsin, tribal natural resource managers

and their cooperators on average reseeded 6,500 pounds of manoomin in wetlands in the ceded territory during each of the last ten years.

GLIFWC's remediation efforts extend beyond the lakes and waterways of the ceded territory to endangered animal species. In 1991 GLIFWC biologists began studying *waabizheshi* (marten), a member of the weasel family and an Ojibwe clan animal. On the endangered list since 1972, waabizheshi numbers dwindled because of habitat loss and overharvesting. In 2008 GLIFWC and its conservation partners began a three-year program to live-trap thirty waabizheshi in Minnesota and release them in the Chequamegon-Nicolet Forest in Wisconsin in an effort to strengthen the marten population in Wisconsin.

GLIFWC biologists have also provided technical expertise to member bands on *ma'iingan* (wolf) issues. Bad River, for example, is using radio telemetry to track the movements of several packs of timber wolves on its reservation. Ma'iingan figures prominently in the Ojibwe origin story, in which the Creator cautions Ma'iingan and Anishinaabe that whatever happens to one will happen to the other. Not surprisingly, the Ojibwe bands are intensely concerned over state wolf management policies and the possible reintroduction of a wolf hunting season, given the animal's possible delisting as an endangered species.⁶⁵

Although differences remain over wolf management, the WDNR and GLIFWC's member bands have found considerable agreement on the issue of invasive species and are working together to eradicate garlic mustard, purple loosestrife, zebra mussels, and spiny water fleas. GLIFWC maintains a searchable database and slide library of high-resolution photos the public can access in order to identify invasive species. It also produces brochures, posters, and videos intended to educate the public about invasive species.

The Ojibwe treaty tribes, through GLIFWC, are also drafting policy statements about broader issues such as the Great Lakes Charter Annex, a bilateral initiative that outlines water conservation and management protocols. Under the agreement, Canadian provincial leaders and US governors in the eight states that border the Great Lakes hope to prevent massive water diversions and drawdowns from the watershed.

RACE RELATIONS IN THE CEDED TERRITORY

The overt racism that surfaced at the boat landings during the late 1980s today may be absent from northern Wisconsin; however, it still lurks

under the surface, according to some tribal members. They point to a 2007 climate study at Lakeland Union High School in Minocqua, Wisconsin, which concluded that the school had “a toxic culture toward Native American students and families.” In the report, which assessed American Indian achievement at the high school, participants cited cultural incompetence among teachers, use of racial epithets, and mistreatment of students from the reservation.⁶⁶

One of the bright spots cited in the report was the establishment of the Intercultural Leadership Initiative (ILI), an organization that attempts to bring Native and non-Native students together in both group and one-on-one experiences. ILI recruits middle-school children into the organization in an effort to change the climate in the high school. Although participants agree that it is a positive influence on the school, its effectiveness has been limited. In 2004, when ILI sponsored a Diversity Day at the school, for example, two-thirds of the white students produced notes from their parents, excusing them from the activities because of “illness” or “personal reasons.”⁶⁷

The need to break the cycle of racial misunderstanding and educate children about treaty rights and Indian sovereignty resulted in Act 31, an educational mandate approved by the Wisconsin legislature in the waning days of the spearfishing controversy. The act requires that all schoolchildren in the state be taught Wisconsin Indian history, culture, and sovereignty twice in their K–12 experience. It also establishes cultural competence as a criterion for teacher certification.

Although Act 31 was considered to be an important political victory, it is an unfunded mandate and unevenly implemented in some parts of the state. Still, it has inspired creative initiatives such as ILI as well as Waswagoning, a re-created eighteenth-century Ojibwe village at Lac du Flambeau used for teacher training. It also was the impetus for the American Indian Teachers Institute, a weeklong Act 31 experiential learning opportunity during which teachers get cultural training for credit. Act 31 is now an ingrained topic at conferences held annually on a number of University of Wisconsin system campuses and is the focus of a multidimensional online resource prepared by the UW-Madison School of Education.⁶⁸

The cultural divide that separated Native and non-Native residents in northern Wisconsin was bridged dramatically during a controversial dispute over mining that erupted in the 1990s. Plans for what would

have been one of North America's largest sulfide mines near Crandon, Wisconsin, were derailed when tribes and environmental groups led a successful grassroots effort to enact mining moratorium legislation. Ironically, some of the very "hook and bullet" groups that protested against treaty rights in the 1980s joined the Ojibwe and other tribes to oppose what they construed to be a much larger environmental threat.⁶⁹

The amelioration of racial tension is also evident in Indian gaming employment. All six Ojibwe bands in Wisconsin operate casinos in which an average 55 percent of the employees are non-Indian. A 1993 study revealed that Indian gaming operations had a positive effect on poverty in rural counties, increasing personal income and reducing the need for government assistance.⁷⁰

The mainstream media in Wisconsin have matured somewhat in their reporting on Native issues. Beginning in late 1989 and continuing throughout much of 1990, the *Wisconsin State Journal* published its multipart series Treaty Crisis: Cultures in Conflict, in which it explored the root of racial tension between Native and non-Native residents in northern Wisconsin.⁷¹ It followed up the reports with a series by science editor Ron Seeley about environmental issues confronting Indian nations in the state.

"Sovereignty" and "self-determination" are no longer unfamiliar words in the lexicon of Wisconsin journalists, although blunders are still made. "What do you call a race-based gambling monopoly that pays virtually no taxes and won't reveal its financial records," the *Wisconsin State Journal* opined in a 1997 editorial. "If the owners of these casinos were Sicilian-American instead of Native Americans, the word 'Mafia' might come to mind."⁷² That the state's official newspaper would confuse rights held by a legal sovereign with "race-based" rights and compare tribal governments to Italian gangsters points to an obvious need for ongoing education and improved professional ethics.

CONCLUSION

Twenty-five years ago a "perfect storm" of economic, environmental, and social conditions swirled in northern Wisconsin and battered attempts by the Ojibwe to exercise their treaty-based fishing rights.

A precarious economy—slow to react to changing tourism trends and compromised by severe recession—was a significant factor in the

uproar that followed the federal court's decision to affirm treaty rights. The explosion of second-home construction, the resulting artificial appearance of wealth, and a state revenue-sharing formula based on property, not income, exacerbated the economic woes of the northwoods residents.

Shoreline development, loss of fish habitat, and industrial pollution put pressure on the inland fishery within the ceded territory, as did unregulated angling. This led to a WDNR decision to institute size and bag limits—something treaty opponents seized upon as evidence that spearfishing would damage the fishery and set up the Ojibwe as scapegoats.

Poor reporting by mainstream media unfamiliar with concepts such as sovereignty and treaty rights fanned the flames of the opposition and did nothing to address long-standing cultural misconceptions about tribal governments and their citizens. Eventually, legal injunctions and business concerns over the violent images that were broadcast to potential tourists prevailed, and the storm blew itself out.

Today, although the economy of northern Wisconsin has improved, it still lags behind the economy of the state as a whole. However, growth rates in personal income in the eighteen counties within the ceded territory exceed that of the state and are especially strong in areas that were most deeply involved in the spearfishing controversy. Tourism remains strong and is especially vibrant in the most heavily speared counties. Environmental challenges from shoreline development, habitat loss, and invasive species remain. However, comanagement strategies involving federal, state, and tribal resources are having a positive impact on the inland fishery and other natural resources. GLIFWC and its member Ojibwe bands have made significant contributions through the operation of fish hatcheries, wild rice reseeding, endangered species programs, and invasive species abatement efforts.

Improved race relations—or at least the absence of overt racism—can be attributed to education efforts such as the Act 31 mandate, employment opportunities for non-Natives generated by Indian casinos, and more informed reporting about sovereignty and treaty rights issues by the mainstream media.

Still, it should be noted that although the treaty rights issue is no longer front-page news in Wisconsin, it is creeping back into the headlines in Minnesota. In the late spring of 2010 the Leech Lake and White Earth

Ojibwe, who signed a separate treaty in 1855, notified the state of their intent to fish outside the scope of state regulations. The state's response was to dispute the tribes' claims. To date, no court case regarding these claims has been instituted. Nevertheless, should one be filed, initial reaction from state and tribal officials was that it would be a drawn-out courtroom battle, possibly ending up before the Supreme Court, as other treaty rights cases have.⁷³

Other reaction to the tribes' claim was predictable. In response to an article in the *Minneapolis Star Tribune* on these new off-reservation fishing rights claims, one reader wrote:

I am so sick of hearing about what happened hundreds of years ago. If they want to be a seperate [*sic*] union and live by what they had back then, then stay on the reservation and don't come off for anything and see how they will survive. It is a typical bunch of lazy people who want something for nothing. . . . Come on folks open your eyes and stop bending over for these bums.⁷⁴

Reactions like this, and the fact that 140 of 165 readers "liked the comment," suggest that animosity over tribal treaties still exists. Although it cannot be stated that a majority of non-Native residents embrace Ojibwe treaty rights, it can be said that, despite extremist voices found on newspaper blogs, non-Indians generally accept that these rights are a reality. Most also recognize that violence and civil disorder are not proper responses. Minnesotans and others who face new treaty rights claims undoubtedly will face the economic, environmental, and social forces that sometimes combine to create a perfect storm of misunderstanding and animosity. Perhaps they will apply the lessons of history and steer the debate to waters that, while choppy, nevertheless are navigable.

NOTES

1. "Ojibwe" and "Chippewa" refer to the same cultural group of Algonquian-speaking Indians who inhabit Michigan, Wisconsin, Minnesota, South Dakota, Montana, and parts of Canada. The Ojibwe also sometimes refer to themselves as Anishinaabe, members of a historic confederacy that includes the Potawatomi and Odawa or Ottawa. Eleven of the Ojibwe bands comprising the Lake Superior Tribe of Chippewa played important roles in legal battles that began with *Michigan v. Jondreau* in 1971, continued with the so-called *Voigt* decision in Wisconsin in 1983, and culminated in the *Mille Lacs v. Minnesota* decision by the United

States Supreme Court in 1999. We prefer to use the word “Ojibwe,” reflecting its increased popular usage. However, when “Chippewa” is used in historical or legal documents or is part of the formal name of a band, we use that term.

2. James Schlender, former executive director, Great Lakes Indian Fish and Wildlife Commission, author interview, October 12, 1994. Reported violence in 1990 included gunshots ringing out on Catfish, Gordon, and Forest Lakes; rock throwing at North Twin, Big Arbor Vitae, and Plum Lakes; and bomb threats at Big Eau Pleine and Pelican Lake. See excerpts of witness reports filed with police in Rick Whaley and Walter Bresette, *Walleye Warriors* (Philadelphia: New Society Publishers 1994), 169.

3. Patty Loew, “Hidden Transcripts in the Chippewa Treaty Rights Struggle,” *American Indian Quarterly* 21, no. 4 (1997): 722.

4. United States Department of Commerce, Bureau of Economic Analysis, <http://www.bea.gov/regional/bearfacts/action.cfm>. Wisconsin’s PCI growth rate was 39.1 percent. Between 1980 and 2006 the three counties at the epicenter of the spearfishing protests, Oneida (53.6 percent), Vilas (53.4 percent), and Sawyer (53.5 percent), experienced growth rates that exceeded the state average.

5. David Wrone, “The Economic Impact of the 1837 and 1842 Chippewa Treaties,” *American Indian Quarterly* 17, no. 3 (1993): 332.

6. “Gossip, inflammatory statements by public officials, and sometimes biased print media created an escalating spiral of increasing White protest. As anger escalated, these protests sometimes changed from speech and political advocacy to intimidation and violence” (“Native American Treaties: Their Ongoing Importance to Michigan Residents,” Native American Treaty Rights Enforcement, Clarke Historical Library, Central Michigan University, http://clarke.cmich.edu/resource_tab/native_americans_in_michigan/treaty_rights/treaty_rights_and_the_great_lakes_fishery/native_american_treaty_rights_enforcement_1965-1999/introduction.html).

7. Charlie Otto Rasmussen, “Reflections from Bucko Teeple, Horses on the Ice; Vigilantes on the Beach,” *Mazina’igan* (Spring 2007): 22.

8. Photo of unidentified protestor being interviewed by WAOW TV (ABC), Wausau, Wisconsin. The placard the interviewee holds is affixed to the handle of a speared fiberglass fish. The “Tommy T” is a reference to then-governor Tommy Thompson.

9. “First Annual Indian Shoot,” poster reproduction in *Moving beyond Argument: Racism and Treaty Rights* (Odanah, WI: Great Lakes Indian Fish and Wildlife Commission, 1989), 24.

10. Yolanda St. Germaine, author interview for Wisconsin Public Television, Lac du Flambeau, Wisconsin, March 4, 1995.

11. “Court Gives Unlimited Fishing Rights to Indians,” United Press International, January 25, 1983.

12. Ron Seely, "Sideshow Lightens Up Protest," *Wisconsin State Journal*, April 20, 1990, 1C.

13. See Loew, "Hidden Transcripts." For more on media framing of the treaty rights dispute, see Patty Loew and Kelly Mella, "Black Ink and the New Red Power: Native American Newspapers and Sovereignty," *Journalism and Communication Monographs* 7, no. 3 (2005); and Patty Loew, "Voices from the Boat Landings in the Chippewa Treaty Rights: Source Selection and Bias in the Coverage of Two Very Different Newspapers" (master's thesis, University of Wisconsin–Madison, 1992).

14. Lawrence S. Barish, ed., "Employment Trends in Wisconsin, January 1990–2003," in *State of Wisconsin 2003–2004 Blue Book* (Madison: Wisconsin Legislative Reference Bureau, 2004), 672.

15. Todd Berry, Wisconsin Taxpayers Alliance, author interview, April 8, 2009.

16. "Historic and Regional Trends in the U.W. and Wisconsin Dairy Sectors," *Wisconsin Family Farm Facts* 11 (2001).

17. Mary Beth Scaggs, "Recent Employment Trends in the Lumber and Wood Products Industry," Bureau of Labor Statistics report, 2004, <http://www.bls.gov/opub/mlr/1983/08/art4full.pdf>; and John P. Mullins, "Recent Employment Trends in Residential and Nonresidential Construction," Bureau of Labor Statistics report, 2006, <http://www.bls.gov/opub/mlr/2006/10/art1full.pdf>. The decline in wood products employment is not attributable to a decline in the timber resource itself, which remained relatively stable during the 1980 recession. For more, see Robert Potts et al., *The Changing Midwest Assessment: Land Cover, Natural Resources, and People. Gen. Tech. Rep. NC-250* (St. Paul, MN: US Department of Agriculture, Forest Service, North Central Research Station, 2004).

18. Center on Wisconsin Strategy and Wisconsin Council on Children and Families, *Pulling Apart: Wisconsin's Growing Income Inequality 2008* (Madison: Center on Wisconsin Strategy and Wisconsin Council on Children and Families, 2008), 2–4. From the mid-1980s to the mid-2000s, the average real income of Wisconsin families in the bottom fifth of earnings grew only 7 percent (or \$1,369). Income at the middle of the income distribution in Wisconsin grew somewhat faster but was still rather sluggish, with income up only 14 percent (\$6,583) over the seventeen-year period. At the same time, families in the top income quintile saw their average income rise nearly 36 percent (\$31,600), to \$120,440.

19. Wisconsin Department of Development, "The Wisconsin Tourism Industry Study, Second-Home Ownership: 1981 Data, and Economic Development Issue Papers," Governor's Northern Economic Development Conference, Rhinelander, May 14–15, 1987. This study indicated that vacation patterns had changed in Wisconsin. The trend was toward shorter getaways, yet many traditional resorts required a one-week minimum stay. The study, which also found

that tourists wanted more amenities, reported that 60 percent of resort owners “have not made any improvements or done upkeep since the resort was built.” In addition, less than 8 percent of vacationers listed fishing as their prime reason for visiting northern Wisconsin.

20. Lac Courte Oreilles Band of Lake Superior Chippewa Indians et al. v. Voigt et al., 700 F.2d 341–65 (1983).

21. “Wisconsin Spear Fishing,” *CBS News*, May 6, 1989.

22. US Department of the Interior, *Casting Light upon the Waters: A Joint Fishery Assessment of the Wisconsin Ceded Territory* (Minneapolis: Bureau of Indian Affairs, 1991). Partners in the joint fishery assessment included the Department of the Interior; Bureau of Indian Affairs; US Fish and Wildlife Service; Great Lakes Indian Fish and Wildlife Commission; the six Ojibwe bands in Wisconsin (Bad River, Lac Courte Oreilles, Sokaogon, Lac du Flambeau, St. Croix, and Red Cliff); and the Wisconsin Department of Natural Resources.

23. “Development Trends in Northern Wisconsin,” WDNR report, 1996, <http://www.dnr.wi.gov/org/water/wm/dsfm/shore/documents/developmenttrends.pdf>.

24. US Department of the Interior, *Casting Light upon the Waters*, 31–37.

25. The WDNR conducts random creel surveys on fifteen to twenty lakes each year. Clerks count the number of anglers and identify the species of fish targeted, caught, and harvested. They note the lengths and marks of the harvested fish and the number of hours invested in catching the fish. This information is used to estimate the exploitation rate of the resource, among other data. In 1985, after a federal judge ordered an assessment of the resources in the ceded territory, fish population intensified. Today, WDNR and GLIFWC scientists use fyke nets and electrolyte fishing to catch a sample of the fish population on targeted lakes. They mark them and then repeat the procedure. By extrapolating the number of marked fish caught in the second count to those caught in the first count, biologists are able to determine how many fish are in a lake.

26. Prolonged exposure to mercury, used in a variety of commercial and industrial processes, is known to cause damage to the central nervous system in humans. Researchers discovered that PCBs, used in the production of transformers, capacitors, and coolants, cause liver damage in humans. Much of the mercury in northern Wisconsin is generated by coal-fired plants and smelting facilities. In 1979 Congress banned PCB production in the United States. Both toxins are associated with embryo mortality in fish, lower reproductive success in birds, and weight loss in small mammals. See Biodiversity Research Institute, “Mercury Connections: The Extent and Effects of Mercury Pollution in Northeastern North America,” <http://www.briloon.org/mercury/BRIMercury.pdf>; and Fox River Watch, “Wildlife Health Damages Due to PCBs,” http://www.foxriverwatch.com/wildlife_health_pcb.html. The US Fish and Wildlife

Service identified five paper companies as “potentially responsible parties” in PCB contamination of Wisconsin’s Fox River.

27. Wisconsin Department of Natural Resources, *Long Range Management Plan, Muskellunge Management Plan Section 7 and Walleye Management Plan, Section 9* (Madison: WDNR, 1979), 1–7.

28. Interview with Evelyn Hartlep, Minocqua town chair, in R. Strickland, S. J. Herzberg, and S. R. Owens, “Keeping Our Word: Indian Treaty Rights and Public Responsibilities—A Report on a Recommended Federal Role Following Wisconsin’s Request for Federal Assistance,” University of Wisconsin–Madison School of Law, 1990, 20.

29. Douglas L. Medin, Norbert O. Ross, and Douglas G. Cox, *Culture and Resource Conflict: Why Meanings Matter* (New York: Russell Sage Foundation, 2006), 5.

30. Nick Hocking, author interview in *Spring of Discontent* (WKOW TV–Madison, May 1990).

31. Wisconsin Department of Natural Resources, “Spearing and Sport Angling for Walleye in Wisconsin’s Ceded Territory,” Wisconsin DNR Administrative Report no. 31, 1990, 18.

32. Wisconsin Department of Natural Resources, “Spearing and Sport Angling.”

33. Tom Hook, author interview in *Spring of Discontent*.

34. US Department of the Interior, *Casting Light upon the Waters*, 31–37.

35. Jenifer Kruger, “Open Water Spearing in Northern Wisconsin by Chippewa Indians during 2002,” Great Lakes Indian Fish and Wildlife Commission Administrative Report, Odanah, 2003, 13.

36. Wisconsin Department of Natural Resources, “Ceded Territory: Walleye Bag Limits for Anglers 2010–2011,” <http://dnr.wi.gov/fish/ceded/baglimits.html>.

37. Sue Erickson, *Seasons of the Ojibwe* (Odanah: Great Lakes Indian Fish and Wildlife Commission, 1997), 15; and Wisconsin Department of Natural Resources, “Ceded Territory: Tribal Harvest,” http://dnr.wi.gov/fish/ceded/tribal_harvest.html.

38. “Indian Fishing,” *CBS Evening News*, May 6, 1989.

39. It should be pointed out that the Ojibwe chiefs who signed the cession treaties may not have intended to “sell” the land at all. In *Statement Made by the Indians: A Bilingual Petition of the Chippewas of Lake Superior, 1864*, the Ojibwe explained that they interpreted the 1837 treaty to mean that they had sold only the timber rights, not the land itself. The statement is contained in the file “Chippewa treaty statement and related papers, 1864, 1881–1882,” Wisconsin Historical Society Archives.

40. “Indian Spear Fishing,” CNN report, May 6, 1989.

41. Unnamed protester, *Spring of Discontent*.

42. Strickland, Herzberg, and Owens, "Keeping Our Word."
43. Wisconsin Advisory Committee to the United States Commission on Civil Rights, *Discrimination against Chippewa Indians in Northern Wisconsin Summary Report* (Madison: Advisory Committee to the United States Commission on Civil Rights, 1989), 3.
44. After Judge Barbara Crabb's 1987 decision (*Lac Courte Oreilles Band of Lake Superior Chippewa Indians et al. v. State of Wisconsin et al.*, 760 F.2d 601–3, commonly referred to as LCO 4), the state appealed the awarding of legal fees to the Chippewa, an appeal that incensed appellate judges, who imposed sanctions for "inexcusable" errors in filing the appeal. Pointing out that this was Wisconsin's third error concerning appellate jurisdiction in the litigation resulting from the 1983 case, the judges expressed concern about the state's "serious lack of understanding of the basic principles of federal appellate review." In assessing sanctions for the "frivolous appeal" the judges stated, "we are entitled to expect better from the State of Wisconsin."
- See Ron Satz, *Chippewa Treaty Rights* (Madison: Wisconsin Academy of Sciences, Arts and Letters, 1991), 98.
45. "Two Law Agencies Fault Spearing Payment," Associated Press report, reprinted in *Mazina'igan*, November–December 1990, 17.
46. Whaley and Bresette, *Walleye Warriors*, 55.
47. Whaley and Bresette, *Walleye Warriors*, 106.
48. Whaley and Bresette, *Walleye Warriors*, 107.
49. US Department of the Interior, *Casting Light upon the Waters*, 93.
50. *Lac du Flambeau Band v. Stop Treaty Rights Abuse–Wisconsin*, 759 F. Supp. 1339 (W.D. Wisconsin 1991).
51. Great Lakes Indian Fish and Wildlife Commission, *Understanding Treaty Rights* (Odanah, WI: Great Lakes Indian Fish and Wildlife Commission, 2007), 29.
52. Jim Zorn, executive director, Great Lakes Indian Fish and Wildlife Commission, author interview, April 23, 2009.
53. US Department of Commerce, Bureau of Economic Analysis, "Regional Economic Accounts," <http://www.bea.gov/regional/bearfacts/action.cfm>.
54. US Department of Commerce, Bureau of Economic Analysis, "Regional Economic Accounts."
55. Wisconsin Department of Tourism, "The Economic Impact of Expenditures by Travelers on Wisconsin: Calendar Year 2008," <http://industry.travel.wisconsin.com/~media/Files/Research/Hidden%20Research/WI%202008%20State%20ReportFULL%20330091pdf.pdf>.
56. Stephanie McClellan, Minocqua–Arbor Vitae–Woodruff Chamber of Commerce, author interview, April 22, 2009.
57. American Sportfishing Association, "Freshwater States Ranked by

Total Retail Sales in 2006,” http://www.asafishing.org/asa/statistics/saleco_trends/2006sr_fresh_sales.html.

58. Native American Tourism of Wisconsin, “About NATOW,” <http://www.natow.org/about-natow/>.

59. Wisconsin Department of Tourism, “Inviting People Back to Our Land,” http://www.travelwisconsin.com/Native_American.aspx.

60. Wisconsin Department of Natural Resources, *Northern Wisconsin’s Lakes and Shorelines: A Report Examining a Resource under Pressure* (Madison: Wisconsin Department of Natural Resources, 1996).

61. George Meyer, author interview, April 9, 2009.

62. T. Douglas Beard, Sean P. Cox, and Stephen R. Carpenter, “Impacts of Daily Bag Limit Reductions on Angler Effort in Wisconsin Walleye Lakes,” *North American Journal of Fisheries Management* 23 (2003): 1283–93; and T. Douglas Beard, Sean P. Cox, and Stephen R. Carpenter, “Evaluation of a Management System for a Mixed Walleye Spearing and Angling Fishery in Northern Wisconsin,” *North American Journal of Fisheries Management* 23 (2003): 481–91.

63. Great Lakes Indian Fish and Wildlife Commission, “Mercury Maps,” <http://www.glifwc.org/biology/inlandfish/mercury/mercury.html>.

64. Great Lakes Indian Fish and Wildlife Commission, *2008 Tribal Fish Hatchery Production* (Odanah, WI: Great Lakes Indian Fish and Wildlife Commission, 2009).

65. As of September 2010, the wolf remains on the federal endangered species list. In 2009 the US Fish and Wildlife Service officially removed the wolf from the list in most states, but a US district court in Montana set aside the rule. Several states, including Wisconsin, have petitioned Fish and Wildlife to remove the wolf from the endangered list.

66. Nicole Bowman, *Lakeland Union High School Native American Achievement Project: Final Report* (Shawano, WI: Bowman Performance Consulting, 2007), 16.

67. Wisconsin Public Television, “Intercultural Leadership Initiative,” *Week-End*, May 21, 2004.

68. The UW-Madison School of Education’s ACT 31 online resource can be viewed at <http://aics.education.wisc.edu/AboutAct31/Default.aspx>.

69. Zoltan Grossman, “Unlikely Alliances: Treaty Conflicts and Environmental Cooperation between Native American and Rural White Communities” (PhD diss., University of Wisconsin–Madison, 2002).

70. J. Murray, *The Economic Benefits of American Indian Gaming Facilities in Wisconsin* (Madison: University of Wisconsin Extension, 1993).

71. The *Wisconsin State Journal* series Treaty Crisis: Cultures in Conflict began on Sunday, December 31, 1989, and continued in the Sunday editions on

January 7 and 21. “Cultures in Conflict” became an umbrella title for other in-depth treaty-related reports throughout 1990.

72. “Casinos Give Too Little Back,” *Wisconsin State Journal* editorial, June 17, 1997, 9A.

73. Minnesota Public Radio, “Politics Blamed for Holding up Ojibwe Treaty Rights Issue,” <http://minnesota.publicradio.org/display/web/2010/08/19/treaty-rights-charges/>. It should be noted that the Leech Lake and White Earth bands are members of the Mississippi Tribe of Chippewa, not the Lake Superior Tribe of Chippewa, and were not part of the treaty rights dispute discussed in this article. However, the two bands argue that the Mississippi Tribe of Chippewa also signed the 1837, 1842, and 1854 treaties, which, if the case goes to trial, may inform their legal strategy. The Lake Superior bands have not taken a position on these claims.

74. “Tribal Fishing Battles Loom in Minnesota,” *Minneapolis Star Tribune* reader comment, http://comments.startribune.com/comments.php?d=asset_comments&asset_id=93346194&sort=E§ion=/sports/outdoors&start=10.