

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON

May 1, 1937

MEMORANDUM to the
Commissioner of Indian Affairs.

The Organization Division requested an examination in this office of the status of the Nahma and Beaver Island Indians in Michigan, with a view to determining their opportunities for organization under the Indian Reorganization Act. In the memorandum presented by the Organization Division the following information on these groups is given:

"1. The Nahma Indians are located at Nahma, Michigan in Delta County (Upper Peninsula). I am advised that they are members of the Ottawa Tribe but are today inter-married with the Chippewa Tribe. The exact number is not known, but there are about 90 children from one group attending school.

"2. The Beaver Island Indians are located on Beaver, North Fox, South Fox, Hog and High Islands in Lake Michigan within the territorial jurisdiction of the State of Michigan. They are descendants of the Chippewa Tribe and number between 200 and 300 persons. Mr. Cavill visited these islands in 1918 and compiled an appraisal and estimate of some 30 allotments."

Aside from this information there appears to be very little material available in the Interior Department bearing upon their band status. The Indian Office Mails and Files Division reported that they have no files on these groups. A search of the files on the Ottawa and Chippewa Indians generally for the last 20 years reveals no material on these Indians. The only evidence on the status of these Indians is the last treaty made with the Ottawa and Chippewa Indians, that of July 21, 1855 (11 Stat. 621), and the interpretations put upon it by the Department.

The treaty of 1855 provided that various sections of land in Michigan should be set aside for a number of different bands. The third paragraph reads as follows:

"For the Beaver Island Band--High Island, and Garden Island, in Lake Michigan, being fractional townships 38 and 39 north, range 11 west--40 north, range 10 west, and in part 39 north, range 9 and 10 west."

The fourth paragraph provides as follows:

"For the Cross Village, Middle Village, L'Arbreche-roche and Bear Creek bands, and of such Bay du Noc and Beaver Island Indians as may prefer to live with them, townships 34 to 39, inclusive, north, range 5 west-- townships 34 to 38, inclusive, north, range 6 west-- townships 34, 36, and 37 north, range 7 west, and all that part of township 34 north, range 8 west, lying north of Pine River."

There is no mention of the Nahma Indians as such but it may be that the reference to the "Bay du Noc" Indians refers to the Nahma Indians since the Town of Nahma is situated on the Big Bay du Noc. In any case the Bay du Noc Indians are not referred to as a band. This treaty was signed by five groups of bands, namely, the Sault Ste. Marie Bands, Grand River Bands, Grand Traverse Bands, Little Traverse Bands, and Mackinac Bands. These five groups were composed of numerous subbands, each with a chief and his following. Possibly, the Nahma and Beaver Island Indians were such subbands. But neither in the signature to the treaty nor in the band rolls made for the payment of treaty annuities are these subbands designated by name.

Article V of the 1855 treaty provides that the tribal organization of the Ottawa and Chippewa Indians "is hereby dissolved" and that future negotiations in reference to any matters contained in the treaty should be carried on only with those Indians locally interested. This article has been consistently interpreted by the Interior Department, for as far back as the available files go, as providing for the dissolution of all tribal relations, including band relations, and the Interior Department has refused to recognize any of the Ottawa and Chippewa groups as bands. A sample of this attitude, which is repeated in innumerable instances of correspondence with Ottawa and Chippewa Indians, is the letter of February 15, 1917, to Mr. Eugene Hamlin concerning his credentials as a representative of Ottawa and Chippewa Indians near Harbor Springs, Michigan:

"Receipt is acknowledged of your letter of February 9, 1917, in which you say that you have been chosen as a delegate by certain of the Ottawa and Chippewa Indians of Michigan, and ask whether or not your credentials will be properly recognized to the end that you may be accorded a hearing when you visit this city.

"In answer you are advised that the Ottawa and Chippewa tribes of Indians many years ago became citizens of the United States and of the state in which they reside and are now not

under the jurisdiction and control of the Government. The Office could not, therefore, save in a merely advisory capacity, interfere in any of your personal matters, nor could it approve your appointment or selection by a number of your people as a delegate. * * *

"Of course it is to be understood that you or any of your people who may visit this city do so on their own responsibility and must look to their own resources for their expenses, etc."

The most recent test of the attitude of the Interior Department on the band status of the Ottawa and Chippewa groups occurred with relation to the Sault Ste. Marie Bands of Chippewas. A thorough investigation of the history of these bands was undertaken in an effort to prove their band status. It was found that a separate treaty was entered into with these bands subsequent to the July 31, 1855 treaty; that they were enrolled as separate bands in the money payment rolls of Ottawas and Chippewas from 1857 to 1867; that they retained their formal band organization down to the present time and continuous correspondence had been carried on between their band representatives and the Indian Office. However, in spite of this evidence tending to show their actual band status the Interior Department refused to accord them legal recognition as a band, in view of the dissolution of the Ottawa and Chippewa Tribe under the 1855 treaty and the cessation of the exercise of guardian over these Indians for nearly half a century.

If the Sault Ste. Marie Bands were not in a position to be recognized as a band by the Interior Department it is out of the question to establish any existing band status for the Nahma and Beaver Island Indians in view of the paucity of any evidence on the subject and in view of the fact that there is no showing in any treaty that the Nahma Indians were even recognized originally as a band.

There is no possibility of approaching organization for these Indians through their present land status as there are no existing reservations for these Indians. The land set aside under the third and fourth paragraphs of the 1855 treaty, quoted above, was entirely allotted and fee patented to individual Indians under other provisions of that treaty. The Executive order of August 9, 1855, provided for the withdrawal from sale of a number of sections and townships in Michigan to carry out the 1855 treaty, in which order High Island and Garden Island are named. However, all this land was dis-

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posed of by fee patenting in the manner provided by the treaty. No land of these Indians remains in trust status.

Accordingly I am of the opinion that the Nahma and Beaver Island Indians do not enjoy a status either as recognized bands or as Indians on a reservation entitling them to be organized under the Indian Reorganization Act and that the only method of providing benefits is through the selection of those Indians among them who are of one half or more Indian blood and the purchase of land for them and their subsequent organization.

(Sgd) Frederic L. Kirgis
Acting Solicitor.