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State Citizenship as a Tool of Indian Persistence: A Case Study of the Anishinaabeg of Michigan

by
Theodore J. Karamanski

Introduction

Many American Indians have a unique legal status in the United States. They are at one and the same time citizens of the federal republic, citizens of the various states, and members of sovereign domestic nations that share government-to-government relationships with the U.S. government. In the past half-century it is the third status, as sovereign political entities, that has drawn the most legal attention, as tribal governments have used their sovereignty to sponsor gaming and other economic enterprises to improve their members' financial circumstances. Historians have devoted considerable attention to charting the fall and rise of Native sovereignty in the United States with the result that sometimes they have exaggerated the importance of maintaining or regaining tribal polities for historic Indian peoples while discounting the effectiveness of other political strategies. State citizenship is one of the understudied tools Indians used to remain in their homelands and to preserve and advance their unique cultures. Typically, historians have dismissed state citizenship as a device to facilitate removal or termination of tribal polities. This article will explore the development of Indian citizenship in Michigan; the result is a case study of the successes and failures of state-level Indian political activism in nineteenth-century America.¹

In 1850 Michigan offered citizenship to its American Indian residents—a rare step at that time. The importance of this liberal policy

¹ Excellent general histories that largely ignore Indian citizenship except in the national context include Roger L. Nichols, *American Indians in U.S. History* (Norman: University of Oklahoma Press, 2003); Nancy Bonvillian, *Native Nations: Cultures and Histories of Native North America* (Upper Saddle River, N.J.: Prentice Hall, 2001); and James Wilson, *The Earth Shall Weep: A History of Native America* (New York: Grove, 1998). Historians who have taken a dim view of state-citizenship efforts include Frederick E. Hoxie, "What Was Taney Thinking? American Indian Citizenship in the Era of *Dred Scott*," *Chicago-Kent Law Review* 82 (April 2007): 329-59; and Daniel R. Mandell, *Tribe, Race, History: Native Americans in Southern New England, 1780-1880* (Baltimore: Johns Hopkins University Press, 2008).

of Indian inclusion and the active role the Anishinaabeg played in shaping it have not been historically appreciated, however. The provision is barely mentioned in general state histories, and those historians who study Indians in Michigan have either ignored or disparaged its significance. Yet state citizenship for Indian men played a key role in the persistence of Native populations in the state and should have provided the nation with an example of the possibilities and pitfalls of incorporating Indians within the body politic.²

Michigan in the Late 1830s

Michigan voters extended the rights of citizenship to American Indians only after they had extinguished their title to the agriculturally attractive lands in the southern and central portions of the state. Between 1795 and 1836 the United States used military pressure and later the threat of removal to lands west of the Mississippi River to leverage massive territorial cessions from the Odawa, Ojibwe, and Potawatomi. A series of treaties left the majority of Michigan's Indians in a precarious position, living on small or temporary reservations. During the 1830s, the real-estate market was so feverish that eastern speculators and preemption settlers swarmed onto the most accessible of the ceded lands before many Indian communities even had the time to relocate. The federal government seemed determined to clear the Indians out of Michigan the same way it had removed almost all of the Native Peoples from Indiana and Illinois. Several hundred Michigan Potawatomi were forced west at bayonet point; many other Anishinaabeg fled to British-controlled Canada.

The momentum for Indian removal, however, broke following the Panic of 1837, which abruptly ended the rising value of Michigan land. Settlement of the Michigan frontier largely halted and many whites

² The word Anishinaabeg, or "true people," refers to Odawa, Ojibwe, and Potawatomi who shared similar customs, languages, and homelands on the Michigan peninsulas. See Willis F. Dunbar and George S. May, *Michigan: A History of the Wolverine State* (1965; repr., Grand Rapids: Eerdmans, 1995), 313. Charles E. Cleland describes the status of Indian citizenship as "ambiguous" and dismisses it by noting "few Indians opted for Michigan citizenship." Idem, *Rites of Conquest: The History and Culture of Michigan's Native Americans* (Ann Arbor: University of Michigan Press, 1992), 243, 249-50. Elizabeth Neumeyer appreciates the active role played by Indians in avoiding removal but does not note the important role citizenship played in this process. Idem, "Michigan Indians Battle against Removal," *Michigan History* 55 (Winter 1971): 275-88. Edmund J. Danziger, Jr., also largely ignores the issue of Indian citizenship in Michigan. Idem, *Great Lakes Indian Accommodation and Resistance during the Early Reservation Years, 1850-1900* (Ann Arbor: University of Michigan Press, 2009).

ceased to see Indians as an obstacle. Rather, many frontier merchants came to appreciate them as valued customers, or as Susan Gray has called them "necessary neighbors." In the wake of a collapsed economy, Indians, who received annuity payments from Washington in silver coins, were among the few individuals who were able to buy products with hard money.³

The policy of removing Michigan Indians to the West did not affect or interest most Euro-American citizens because they lived in areas where Native Peoples had already largely been evicted. In the northern part of the state, those active in the fur trade did not support removal. Since the 1836 land cessions had given the Odawa and Ojibwe annual cash annuities, traders were not anxious to see old customers with new buying power exiled to the arid plains. Christian missionaries working among Michigan Indians were split between those who saw removal as a desirable opportunity that would allow them to work with their Native congregations in a more isolated region, and those who understood the Anishinaabeg's deep attachment to their homes and believed that Christianization and "civilization" were best pursued in a familiar environment. Federal officials, however, largely ignored whites' changing attitude toward removal, and they continued to believe that removal should be the United States' ultimate goal. These men had come to power during the administration of Andrew Jackson, and they held their patronage positions in part because of their reliability as Democratic Party operatives. For these officials, removal was part of the Jacksonian policy gospel and could not be questioned.⁴

The chief proponent of removal in Michigan was the new state's federal Indian agent, Henry Rowe Schoolcraft. Widely regarded as the white man most knowledgeable about the Great Lakes Indians, Schoolcraft had lived and worked among those tribes from the time he first came west in 1820. Explorer, ethnologist, mineralogist, and

³ For an excellent account of the impact of the Panic of 1837 on Indian-white relations in south-central Michigan, see Susan E. Gray, *The Yankee West: Community Life on the Michigan Frontier* (Chapel Hill: University of North Carolina Press, 1996), 67-90.

⁴ For the attitudes of white settlers toward Indian removal, see William A. Richmond to James Shields, Commissioner of Indian Affairs, May 1, 1846, RG 75, M-1, roll 40, National Archives (hereafter NA), Washington, D.C. For the fur traders' position on Indian removal, see Reuben Turner to President Tyler, June 25, 1841, RG 75, M-234, roll 424, NA; and Reuben Turner to Robert Stuart, June 23, 1841, RG 75, M-234, roll 424, frames 0762-0764, NA. Information about the conflicting views of missionaries can be found in Isaac McCoy, *History of Baptist Indian Missions* (New York: Johnson Reprints, 1970), 494-95; and John H. Pitezel, *Lights and Shades of Missionary Life* (Cincinnati, Ohio: Western Book Concern, 1860), 221.

bureaucrat, Schoolcraft was also married to Jane Johnston Schoolcraft, a mixed-blood member of a prominent Ojibwe fur-trader family. His great administrative coup had been the successful negotiation of the 1836 Treaty of Washington and its massive Anishinaabeg land cession. Although the original treaty had created secure homeland reservations for the Odawa and Ojibwe, the U.S. Senate later revised the document and limited these tribes' tenure to a mere five years, after which they were eligible to be moved to new reservations west of the Missouri River. Many Native leaders were horrified by these changes, which greatly altered the terms of the agreement; Schoolcraft, however, was able to secure the approval of most of the important chiefs. He was rewarded for his services in 1839, when he was appointed Superintendent of Indian Affairs for the Northern Department. As the five-year deadline approached for the Native Peoples to leave their reservations, Schoolcraft used his powerful post to push for the Ojibwe and Odawa to be moved to the West.⁵

Fighting Removal with Civilization and Citizenship

Odawa and Ojibwe leaders understood the threat removal posed, and they had long worked to devise strategies to avoid it. Accepting citizenship, and the civil rights guarantees that would come with it, was a tactic they had considered as early as 1835, when a group of Catholic Odawa petitioned President Andrew Jackson to lift the threat of removal. In return these Odawa pledged to "submit ourselves to the Laws of that country within whose limits we reside." All they received from Jackson in return was an invitation to a council to discuss another land-cession treaty. Although Ojibwe and Odawa leaders had agreed to the 1836 land-cession treaty, they did not consent to give up their Michigan homes. In a letter to President Jackson, Odawa leaders wrote that removal made their "soul[s] shrink with horror at the idea of rejecting our country forever—the mortal remains of our deceased parents, relations, and friends, cry out to us as it were, for our compassion, our sympathies and our love." Citizenship and civil rights were on the minds of several of the chiefs who agreed to the punitive changes the U.S. Senate made to the 1836 treaty. Although the revised treaty created the possibility of removal after five years had passed (1841), it also guaranteed \$600,000 in cash payments that the Native

⁵ For more on Schoolcraft, see Richard G. Bremer, *Indian Agent and Wilderness Scholar: The Life of Henry Rowe Schoolcraft* (Mt. Pleasant, Mich.: Clarke Historical Library, CMU, 1987); and "Treaty with the Ottawa, etc., 1836," in *Indian Treaties, 1778-1883*, ed. Charles J. Kappler (New York: Interland, 1978), 451-54.

Peoples could use to purchase land as private individuals. Ogemainini, an Odawa chief known to whites as Joseph Wakaso, was more interested in fee-simple land titles than reservations. In spring 1836, Ogemainini petitioned the president for a grant of public-domain land in Allegan County. He did not want a reservation, because "we will be obliged to sell at some future time, whether we wish or not." Rather, Ogemainini requested legal title "so we can feel secure of maintaining our rights in Courts of Justice, as the White Man, who holds the President's patent on his farm." The Odawa leader saw the members of his band's future as citizens, "under the Laws, Government, and Jurisdiction of the United States." Although Ogemainini's petition was endorsed by the signatures of seventy Allegan County white settlers, the Jackson administration ignored his request. Undeterred, Ogemainini eventually purchased more than one thousand acres along the Black River in 1839.⁶

The Anishinaabeg understood that land ownership gave them leverage when they were faced with officials bent on removing them to the West. Property ownership gave the Anishinaabeg civil status, over and above their relationship as trustees of the United States. Tribes as sovereign entities could be bound by treaties and forced by governments to forsake treasured homes and ancestral burial grounds; individuals who owned property, however, had rights that federal and state officials were obliged to respect. Odawa and Ojibwe leaders organized private land purchases as soon as General Land Office surveys were made in northern Michigan. The Grand Traverse Ojibwe purchased hundreds of acres on the west shore of Grand Traverse Bay and contracted with a surveyor to ensure that their locations were exact. The Little Traverse Odawa made the most impressive purchases. Between 1844 and 1855, the band purchased sixteen thousand acres of public-domain land. Catholic and Presbyterian missionaries helped with these purchases, but the Anishinaabeg provided the initiative.⁷

⁶ Memorial of the Ottawa Delegation by A. Hamlin, December 5, 1835, RG 75, M-234, roll 421, frames 722-725, NA (emphasis in original); Joseph Wakaso to President of the United States & the Senate and House of Representatives in Congress Assembled, April 1836, RG 75, M-1, roll 72, frames 229-230, NA; James McClurken, "We Wish to Be Civilized: Ottawa-American Political Contests on the Michigan Frontier" (PhD diss., Michigan State University, 1988), 215-16.

⁷ Ashquagonabe and Ahgosa to Charles P. Babcock, October 15, 1849, RG 75, M-1, roll 63, NA; Henry Gilbert, "Michigan Indian Agency, October 15, 1855," in *Annual Report of the Commissioner of Indian Affairs, for the Year 1855* (1856; repr., New York: AMS Press, 1976), 352.

Property ownership was not the only form of civil status sought by the Anishinaabeg. They also lobbied for full citizenship rights. In an 1841 petition to the president, the Little Traverse Odawa proudly noted their villages of log houses, their churches, their schools, and how many of their people could read and write, some in Odawa, others in French or English. In light of these achievements, the Little Traverse Odawa expressed the desire "to become citizens of the State of Michigan."⁸

Schoolcraft was aware that the Indians were purchasing land and he was unmoved by the "friendly feeling on the part of the people of Michigan for them" and by the Anishinaabeg's willingness to "submit to the extension of township, county, and general laws over them." In his view these sentiments were futile because of the racial disparities between "two great stocks of the human race, who are so different in their leading traits, both physical and intellectual."⁹ Fortunately for the Odawa and Ojibwe, electoral politics saved them from Schoolcraft's removal plans. The presidential election in 1840 brought a temporary end to the Democratic Party's control of the national government. As the Whig Party took power, Schoolcraft was replaced by a former fur trader, Robert Stuart. Although he was not optimistic that citizenship for the Indians would ever be granted by Michigan, Stuart was decidedly opposed to a program of forced removal.¹⁰

The Michigan Anishinaabeg's quest for citizenship took place in the aftermath of an intense national debate over the forced removal of the Cherokee from their homes in Georgia and Tennessee (1836 to 1838). In that case, it was the assertion of sovereign status by the Cherokee that had enflamed southern state officials: they would brook no independent government within their commonwealths. In light of the Cherokee experience, it is telling that the Anishinaabeg made no such assertion of sovereignty; rather, they sought to obtain civil rights under existing Euro-American political institutions. Unlike the Cherokee Nation, which still held a large territorial estate, the Odawa and Ojibwe had already ceded the bulk of their lands. Sovereignty was less important to them than remaining in Michigan. This more modest

⁸ Petition of the Principal Chiefs of the Ottawa and Chippewa to the President, August 12, 1840, RG 75, M-234, roll 424, frames 0050-0053, NA.

⁹ "Extract of a report made by H. R. Schoolcraft, Acting Superintendent of Indian Affairs, made to the Indian Bureau at Washington relative to the Ottawa and Chippewa of the upper lakes," September 24, 1840, *Documents Accompanying the Journal of the Senate of the State of Michigan, at the Annual Session of 1841* (Detroit: George Dawson, 1841), 1: 66.

¹⁰ Robert Stuart to Francois Pierz, November 30, 1844, RG 75, M-1, roll 39, NA.

agenda allowed the Odawa and the Ojibwe to argue that Michigan should cooperate with them in their quest to obtain citizenship based on their economic productivity and their progress in becoming "civilized."

In 1841, the Indian Agent Robert Stuart warned the new Whig administration that the Anishinaabeg could only be removed by using military force. At the same time he urged the Grand Traverse Ojibwe to petition the Michigan State Legislature for the "privilege of citizenship and the protection of the State laws." Two years later the Little Traverse Odawa acted on Stuart's advice. Although the Odawa wrote to the state legislature, they did not anticipate that it would take action toward conferring state citizenship; rather, the Odawa requested "the rights and privileges of American citizenship." They addressed the state lawmakers in the hope that they would join the Odawa in "supplicating their common Father to extend his wings over their little band, and gather them among his children." The Odawa's main fear remained removal from "the homes of their childhood, the burial grounds of their race." The legislature responded to the Odawa's plea by unanimously voting to instruct the Michigan congressional delegation to oppose removal. Whether these efforts affected policy is unclear. What is certain is that although removal remained a threat, the federal government did not act upon it, nor was there any discussion of Indian citizenship.¹¹

Conditional Citizenship under the Constitution of 1850

In 1850 the question of citizenship for Michigan's Indians was raised again, this time not merely by the Anishinaabeg, but also by the white male delegates to a constitutional convention. The convention was called primarily to make government more responsive to the voters. Among the host of reforms discussed at the convention was expanding suffrage to people of color. However, a motion to remove the word "white" from a voting-rights provision was easily defeated by a majority that did not want to include African Americans in the electorate.¹²

¹¹ Neumeyer, "Michigan Indians," 283-84; Peter Dougherty to David Wells, September 10, 1841, reel 1, Peter Dougherty Papers, Bentley Historical Library, Ann Arbor, Mich.; Petition of the Ottawa Indians Residing at L'Arbre Croche, December 4, 1843, *Documents of the Senate and of the House of Representatives, at the Annual Session of the Legislature of 1844* (Detroit: Bagg & Harmon, 1844), 12-13.

¹² Eventually the question of voting rights for black Michigan residents was put to the test in a general referendum in 1865. Voters rejected the provision thirty-two thousand to twelve thousand. See Dunbar and May, *Michigan*, 313-14.

U.S. Constitution. Delegates recognized that only the federal government could set the terms under which individuals could acquire American citizenship, and it did so specifically thorough its naturalization procedure. Yet under the U.S. Constitution, states had the right to determine who could or could not vote in elections. As one delegate explained the distinction, we “make men electors within our borders—not citizens beyond our borders. We make them electors for State purposes, not citizens for national purposes.”¹⁷ However, by opening the door to citizenship status within Michigan, the convention delegates held out the promise that Native Peoples in that state could be more than members of what Chief Justice John Marshall had called “domestic dependent nations.” Instead, they might become individuals exercising crucial political rights—the right to vote and to own property within the state commonwealth.

Anishinaabeg Agency and the Shaping of State Citizenship

White lawmakers neither intended nor appreciated the broader implications of expanding the definition of who was allowed to vote in Michigan. The Indians recognized the larger effects of this change, however, and it was mostly through Indian initiative that the suffrage provision in the new constitution came to denote citizenship status for the Anishinaabeg. In the wake of the constitution’s ratification by voters in November 1850, it was unclear what was meant by a “male inhabitant of Indian descent.” Judging by the convention debates this could be construed quite narrowly to include only individuals of mixed Euro-Indian ancestry. Equally ambiguous was the stipulation that the individual could not be a “member of a tribe.” This qualification would seem to eliminate from consideration for citizenship any Indian who appeared on the annuity rolls that stemmed from a treaty between the Ojibwe and Odawa and the United States. Indeed, after the new state constitution was approved, the Anishinaabeg were “repeatedly told by [their] white neighbors” that they could not “be adopted as citizens of the State as long as [they] were receiving annuities from the general government.” The

¹⁷ *Report of the Proceedings and Debates*, 495. The legal distinctions between state and federal citizenship became particularly important in the wake of the 1857 U.S. Supreme Court decision in the case of *Dred Scott v. Sandford*, which broadly asserted the federal government’s power to award citizenship. Later, the Supreme Court retreated and wrote that it did not intend to rule on how an individual state determined the citizenship of persons born in that state. For more on the controversy over state citizenship and its relationship to national citizenship, see Rosen, *American Indians and State Law*, 157-61.

Sault Ste. Marie Ojibwe complained to Washington about this interpretation of the law: "We have a hard alternative placed before us—to forgo all the benefits of the Treaty of 1836, or to reject the protection of the Constitution."¹⁸

The Little Traverse Odawa had long been in the forefront of efforts to be accorded United States citizenship, and although Washington had repeatedly ignored the band's petitions, the Odawa were determined to force the issue and seize the opportunity afforded by the new state constitution. During deliberations over that document, Odawa leaders petitioned the delegates and said that they were "praying for the rights of American citizenship."¹⁹ After the ambiguous Indian clause had been added to Michigan's new constitution, the Odawa moved to have its meaning interpreted as liberally as possible. To that end they dispatched a delegation to the state capital at Lansing.²⁰

The delegation consisted of two young leaders, an unnamed chief from Cross Village and Andrew J. Blackbird, a thirty-year-old Odawa from L'Arbre Croche. Blackbird was the son of Mackadepenessy, one of the Odawa leaders who in the 1820s and 1830s spearheaded a tribal "civilization" program designed to ward off removal. This plan required the Odawa to forsake their reliance on fur trapping, to recruit Catholic missionaries, to establish schools, and to erect villages of log and wood-frame buildings. Andrew Blackbird moved beyond these efforts. In his early twenties he decided to obtain a Euro-American education. For several years he attended a preparatory academy in Ohio, perfecting his English-language skills and learning mathematics, science, and rhetoric. Blackbird's experience living and working among whites made him particularly well-suited for the mission to the state capital. So anxious were the Odawa to press their case that Blackbird and his companion set out in the middle of winter. As the shipping season had closed, this necessitated an overland journey of more than two hundred miles through forested wilderness, camping each night in the snow and under the stars.²¹

¹⁸ Andrew J. Blackbird, *A History of the Ottawa and Chippewa Indians of Michigan* (Ypsilanti, Mich.: Ypsilanti Job Printing House, 1887), 60; Petition of the Chippewa Chiefs to the Commissioner of Indian Affairs, November 1, 1853, RG 75, M-234, roll 404, frame 191, NA (quotations).

¹⁹ *Report of the Proceedings and Debates*, 93.

²⁰ Blackbird, *History of the Ottawa and Chippewa*, 60.

²¹ *Ibid.*

After Blackbird and his companion reached the state capital, their first meeting was with Warner Wing, Chief Justice of the Michigan Supreme Court. According to Blackbird's memoir, Wing "gave us his legal opinion of this matter, that he did not think that it would debar us from being citizens of the State, because the Government owed us a little money on account of our former treaties, provided we should renounce our allegiance to our chiefs and recognize no other chief authority than the President of the United States." Chief Justice Wing did not elaborate on the reasoning behind his interpretation of the constitutional provision. He did, however, add that the Odawa would not need a writ of naturalization in order to vote as they were "already naturalized by being American born."²²

In his comments, Chief Justice Wing emphasized the role of chiefs in Indian government, which revealed how little most Michigan authorities understood the Odawa and the Ojibwe. Wing thought that Native Peoples swore "allegiance" to their chiefs, much like the oaths sworn by Europeans to their sovereigns. The United States required immigrants who wished to be naturalized to renounce their allegiance to all foreign monarchs. Unlike these immigrants, however, Odawa men were not bound by formal oaths to respect their chiefs' authority. The men, and occasionally women, who were accorded the title *Ogema* (leader) were usually elders of extended families whose status flowed from a combination of their abilities and their lineage. Generally *Ogemas* had less coercive power than that possessed by a father in a modern American household, although they enjoyed considerably more respect because the extended family was the primary social and economic unit of traditional Odawa life. During the constitutional debates over Indian rights, delegates placed emphasis on Indian men being "civilized" and not belonging to a "tribe." Although Odawa tribal membership was informal, like membership in a family it was the result of birth or adoption. For most Odawa, tribal membership came via the former. The United States maintained a roster of tribal members for purposes of annuity payments, but in the 1850s this conferred no genuine membership status in Odawa eyes. Because Chief Justice Wing did not believe that receiving annuities negated the state's offer of citizenship, the sole standard for determining whether a male Indian might vote or otherwise act as a citizen was his condition as "civilized." Most

²² *Ibid.*, 61.

L'Arbre Croche residents lived in cabins and grew crops or caught fish for the market, many had become Catholics, and some had become land owners; therefore, most could justly claim to be "civilized." Other Anishinaabeg bands would face closer scrutiny when they tried to gain recognition for their members as citizens. But if one accepted Chief Justice Wing's minimal (and unofficial) standards for citizenship, the new constitution's offer was open to nearly any male Indian who wanted to accept it.

Armed with Wing's favorable opinion, Blackbird then approached the man charged with implementing the constitution, Governor John S. Barry. Blackbird presented the governor with a petition that he had drafted and the chiefs of the L'Arbre Croche region had signed. The petition asked that the Odawa be adopted as "common citizens of the state of Michigan, to have all the rights and privileges of American citizenship. And that we should forever remain in this land of our fathers, such are who are enlightened and civilized Indians." According to Blackbird, the governor, a former country storekeeper, "received us very kindly," and he seems to have been moved by their petition. The Odawa believed he "gave us much good counsel on the subject of citizenship, giving us some instructions as to how we should live under the rule of the State if we should become children of the same." When Governor Barry was faced with two Indian men seeking citizenship, like Justice Wing he interpreted the new constitution's suffrage provision as an offer to individual Indians to participate in the commonwealth if they chose to do so. Clearly, Barry also equated the right to vote with citizenship.²³

After meeting with the governor, Blackbird lobbied both the secretary of state and members of the legislature. Again, he received assurances that it was Michigan's intent that willing Indian men should be granted the right of citizenship, regardless of the treaty obligations of the United States government to pay them annuities. Blackbird might even have presented state officials with a preliminary list of Odawa men who "may be entitle[d] for voting." He impressed upon the legislators the importance of having the Office of Indian Affairs recognize the altered status of Michigan Indians.²⁴

These efforts bore fruit on April 7, 1851, when the legislature approved a formal resolution to Congress:

²³ Ibid.; Andrew J. Blackbird to Samuel Bissell, August 1, 1851, Samuel Bissell Papers (hereafter Bissell Papers), Western Reserve Historical Society, Cleveland, Ohio.

²⁴ Blackbird, *History of the Ottawa and Chippewa*, 61.

Whereas the constitution of the State of Michigan gives unto all civilized persons of Indian descent equal rights and privileges with the white inhabitants of said state, and whereas by the adoption of said clause in the constitution, the people of this state have evinced a just and humane desire to see the Indians who now inhabit Michigan raised from a state of semi-barbarism to one of enlightenment and have by it removed one great barrier that has hitherto prevented the consummation of this philanthropic object. And whereas the Ottawa and Chippewa Indians residing amongst us are a civil, well disposed, peaceable and orderly people, and have during the past few years made great advancement in the agricultural and mechanic arts, and a large portion of them ardently desire to remain in Michigan to become civilized and share with us in our social, political, and religious privileges. Therefore be it enacted by the Senate and House of Representatives of the State of Michigan that we do hereby request the government of the United States to make such arrangements for said Indians as they may desire for their permanent location in the northern part of this state.²⁵

Governor Barry sent this resolution to Michigan's congressional representatives so that it could be placed before Congress. To ensure that the resolution's intent was not lost on the administration, copies were also sent to the secretary of the interior, the commissioner of Indian affairs, and the president of the United States.²⁶

Blackbird's mission to Lansing and his lobbying of state judges and officials had been in keeping with the campaign waged by the Odawa and the Ojibwe for civil rights. By their actions they had won support from a body of Michigan citizens who were in favor of incorporating the Anishinaabeg into the commonwealth, they had gotten the attention of the constitutional convention, and they succeeded in having the constitution's ambiguous provisions about suffrage interpreted in a manner that favored their desire to secure citizenship via state law.

The importance of Indian political activism in Michigan can be illustrated by comparing it with the more restrictive Minnesota constitution of 1857. This document offered the elective franchise to those with mixed blood and Indians who "adopted the customs and

²⁵ *Acts of the Legislature of the State of Michigan, Passed at the Extra Session of 1851* (Lansing: R. W. Ingalls, 1851), 258-59.

²⁶ *Ibid.*

habits of civilization," but it also required that prospective "civilized" Indians obtain certification from a district court judge before they could vote. In Minnesota, Indian leaders had not been fully engaged with these issues, and absent their active involvement, the Minnesota courts interpreted the constitution in such a way that the overwhelming majority of the state's Indians could not vote.²⁷

The Michigan Legislature's 1851 resolution, which it sent to Congress and the president, clearly stated that the Anishinaabeg could legally stay in Michigan and that the federal government should formally abandon its removal policy in regard to these tribes. Avoiding removal had been the Anishinaabeg's main goal in working to obtain citizenship. As Andrew Blackbird wrote: "My object in promulgating this cause was, I thought it would be the only salvation of my people from being sent off to the west of the Mississippi." In summer 1851, faced with both Indian and state action in opposition to removal, the Office of Indian Affairs sent an inspector to Michigan. He met with the Odawa and Ojibwe and was impressed with their progress toward becoming "civilized." Eventually, he recommended that they be allowed to stay in Michigan.²⁸

The Federal Government Recognizes Michigan's Indian Citizens

This change in federal policy toward Michigan's Native Peoples necessitated a new and what was anticipated would be the final round of treaty making between the United States and the Odawa and Ojibwe of Lower Michigan and the eastern Upper Peninsula. A new treaty was necessary if the Anishinaabeg were to stay in Michigan because under the 1836 agreement, which had been forced on them by the U.S. Senate, the Indians had ceded their lands in return for a number of reservations their rights to which had expired in 1841. As a result, unless Indians were living on land they had purchased (as a number were) they had no permanent place of residence where they could build homes and securely raise their families. The federal Indian agent in Michigan, Henry Gilbert, argued that it was a matter of "justice to the State of Michigan" that the Odawa and Ojibwe not be "turned over to the state in the condition of paupers [who] will be from year to year a continual source of annoyance to her citizens & expense to the Treasury." Therefore, the heart of the new treaty negotiations would include a plan to provide economic assistance to

²⁷ Rosen, *American Indians and State Law*, 136-51.

²⁸ Blackbird, *History of the Ottawa and Chippewa*, 60; Blackbird to Bissell.

the Anishinaabeg as part of a gradual transfer of their status from that of federal wards to state citizens.²⁹

Over four sweltering days in 1855, Odawa and Ojibwe leaders met with George Manypenny, the commissioner of Indian affairs, and hammered out an agreement. The Treaty of Detroit was a blueprint for the direction American Indian policy would eventually take in the post-Civil War era. Rather than create a tribal homeland, the United States granted the Native heads of households eighty acres of land. This land would be held in trust by the federal government for ten years, after which a fee-simple patent would be issued to the owner. These provisions foreshadowed those of the Dawes Act of 1887, which would have such a negative impact on the unity, self-government, and culture of Native Peoples.³⁰

The Treaty of Detroit concluded with an important provision that “dissolved” the “tribal organization” of the Odawa and Ojibwe “except so far as may be necessary for the purpose of carrying into effect the provisions of this agreement.” This clause would be of great legal interest in the late twentieth century, when Michigan’s Indians attempted to reestablish their government-to-government relationship with the United States. For example, in the *United States v. Michigan* cases it was argued that what the Odawa and Ojibwe sought in the Treaty of Detroit was to end their joint existence as a bargaining entity.³¹ Starting in 1836 the United States had artificially united independent Ojibwe bands with autonomous Odawa bands, referred to them as “Ottawa and Chippewa nations of Indians,” and forced them to negotiate together.³²

²⁹ Henry C. Gilbert to George Manypenny, March 6, 1854, RG 75, M-234, roll 404, frames 368-380, NA.

³⁰ “Treaty with the Ottawa and Chippewa, 1855,” in *Indian Treaties*, ed. Kappler, 728. The Treaty of Detroit was by no means the first attempt at the allotment of Indian lands. As early as the 1830s, federal negotiators had thrust allotment upon the Choctaw and the Creek.

³¹ *United States v. Michigan: United States of America et al., Plaintiffs, v. State of Michigan et al., Defendants*, No. M26-73 C. A., United States District Court, W. D. Michigan, N. D. May 7, 1979; see <http://www.1836cora.org/pdf/usvmichiganfox1979.pdf>, 29 (accessed November 29, 2010). In 1973 the United States Attorney General filed suit against the State of Michigan on behalf of the Indian tribes that were signatories to the 1836 Treaty of Washington to assert their fishing rights on the Great Lakes. That case was settled in 1979 and was followed by a second case that dealt with inland hunting and fishing rights within the area ceded in 1836. In 2007, that litigation was resolved via a negotiated settlement. For more on this case, see <http://www.justice.gov/enrd/4543.htm> (accessed November 29, 2010).

³² Proceedings of a Council with the Chippeway and Ottawas held at the City of Detroit by the Hon. George W. Manypenny [*sic*] & Henry C. Gilbert, Commissioners of the United States, July 25th 1855, series T497, reel 123, 57, NA.

At Detroit, Wawbojieg, an important Ojibwe leader from near Sault Ste. Marie, complained, "At the Treaty of '36, our fathers were in partnership with the Ottawas, but now the partnership is finished & we who come from the foot of Lake Superior wish to do business for ourselves." The treaty clause dissolving the "tribal organization" may therefore be read as effecting that result, i.e., reestablishing the independence of the Ojibwe bands. More importantly, however, the clause was inserted to make the newly established Indian freeholders eligible to claim citizenship under the requirement stated in Michigan's constitution that they "not [be] a member of a tribe."³³ The Ojibwe of the Sault Ste. Marie area specifically requested such a provision in a pretreaty petition to the United States. They asked to be released from their paternalistic relationship with the United States government: "Under the constitution of the State of Michigan we can become citizens & that by availing ourselves of its provisions we are placed beneath a protection which no power can violate; but in order to do this we must abandon our organization as a tribe & our connection with the general government. The last is the proof of the first."³⁴ Because the concept of tribal government had always been a fiction imposed on the Anishinaabeg by Washington in order to make treaties, the Indians did not regard dissolution of "tribal organization" as a major change. The desired result was to claim the status of citizenship. As Andrew Blackbird instructed Commissioner Manypenny during the treaty negotiations: "We are citizens [on] the same footing as yourself."³⁵

The Bitter Fruits of Citizenship

Initially Michigan's Indians warmly embraced the citizenship rights they had so actively campaigned to achieve. In November 1855 the Odawa organized the government of Emmet County, Michigan, and elected a slate of literate young leaders to the offices of deputy sheriff and township supervisor. Andrew J. Blackbird was elected register of deeds and probate judge. Overnight the Odawa went from being simple wards of the federal government to leaders of their own local government. Henry Gilbert was impressed. He wrote to Commissioner Manypenny that the Odawa "have an organized county and with some help manage to get along with their business." The Odawa also became

³³ Ibid (first quotation); "Treaty with the Ottawa and Chippewa, 1855," 729 (second quotation).

³⁴ Petition of the Chippewa Chiefs to the Commissioner of Indian Affairs, November, 1853, RG 75, M-234, roll 404, frame 191, NA.

³⁵ Proceedings of a Council with the Chippeway and Ottawas, July 25th 1855.

participants in statewide elections, and in 1856 they voted in their first presidential election. In 1859 Saginaw Ojibwe voters played a decisive role in the county election, and one of their members won the office of sheriff. Unfortunately, most of the new Indian voters were forced to learn a bitter lesson from Indian agents like Henry Gilbert who still had great influence because he dispensed their annual annuity payments and controlled educational funds and allotments. Like most of the pre-Civil War agents, Gilbert was a staunch Democrat who held his position through patronage. Inevitably he used his leverage over the Anishinaabeg to coerce the new voters into casting their ballots for the political party favored by "the Great Father."³⁶

The Anishinaabeg also paid another price of citizenship when they volunteered to serve in the military during the Civil War. In 1861 the Michigan Legislature rebuffed an offer from the Anishinaabeg to raise a regiment of Michigan Indians. Later, at least one Odawa volunteer saw early service with the Sixteenth Michigan Infantry Regiment during the Seven Days Campaign. The unit most noted for its Indian members was the First Michigan Sharpshooters, whose Company K was predominantly made up of Odawa and Ojibwe and whose captain was a mixed-blood Odawa. The unit suffered heavy losses during the 1864 Overland Campaign.³⁷

After the Civil War, whites began to react negatively to Odawa and Ojibwe participation in the political process. While Indians were in the majority in counties and even townships, they were elected to local offices. In the 1870s and 1880s, however, when northern Michigan's lumber industry boomed and the Euro-American population swelled, the Anishinaabeg were shunted aside. Andrew Blackbird's experience illustrates this trend. From 1855 to 1874, he served in a number of local elected offices, including register of deeds, county treasurer, county

³⁶ Emmet County Supervisor's Journal, 1859-1863; Statement of votes, 1855-1869; both in Office of Emmet County Clerk, Petoskey, Mich.; Henry Gilbert to Commissioner Manypenny, December 26, 1856, Letters Received by the Michigan Superintendency, RG 75, M-234, roll 405, p. 226, NA; Blackbird, *History of the Ottawa and Chippewa*, 64-65.

³⁷ Andrew Blackbird to Rev. Bissell, May 1, 1865, Bissell Papers; for information on Joseph Waukazoo, an Ojibwe Indian of the Odawa tribe who served in a Michigan regiment during the Civil War, see the following website: http://freepages.genealogy.rootsweb.ancestry.com/~waukazoo/joseph_waukazoo.html (accessed December 3, 2010); and Laurence M. Hauptman, *Between Two Fires: American Indians in the Civil War* (New York: The Free Press, 1995), 127-29. For information about Second Lieutenant Garret A. Graveract of Company K, see <http://www.genealogy.com/users/w/e/l/Terry-Weller/> (accessed December 3, 2010).

board member, township supervisor, circuit court commissioner, probate judge, and deputy sheriff. After 1875, however, the Odawa's participation in Emmet County's political leadership dropped dramatically. A new white majority took over the institutions of local government, and Blackbird never again held elected office. In 1877 he was stripped of his patronage job as postmaster of Little Traverse, Michigan. This loss was all the more galling when Blackbird heard white newcomers mutter, "We don't want any more Indian P.M.s."³⁸

This loss of political power and patronage was regrettable, but it paled beside the assault on the Indians' title to their land that followed white ascendancy in northern Michigan. This was the true betrayal of the promise of citizenship. The allotment of lands to Native Peoples never met the expectations of the 1855 treaty makers. Inefficient and sometimes corrupt agents repeatedly botched the land-selection process. When Indians finally received their patents, they were often tricked into signing quit-claim deeds, lured into debt by smooth-talking drummers hawking everything from sewing machines to musical instruments, and hoodwinked by the fine print on contracts they could barely read. Indians who tried to select land via the Homestead Act of 1862 were undermined by General Land Office officials who connived with real-estate speculators. Together they worked a clever game—they let Indians work to improve their claims for several years and then declared the lands abandoned, thereby allowing white "land sharks" to claim them. Anishinaabeg who resisted these schemes were subject to intimidation or buried under a pile of legal bills. Some of Michigan's most notable lumber barons secured prime timberlands in this way. One of the few effective Indian agents described the situation as "bad as the most heartless treatment of ex-slaves of the South."³⁹

³⁸ Andrew Blackbird to Congressman O. D. Conger, May 18, 1884, Letters Received, Office of Indian Affairs, box 197, NA; Blackbird, *History of the Ottawa and Chippewa*, 70-71. Blackbird was also a notary and thus served clients of the post office in this way as well. See *Grand Traverse Herald*, February 25, 1869.

³⁹ Edwin Brooks to Commissioner Hayt, January 4, 12, 1878, Letters Received by the Office of Indian Affairs, RG 75, M-234, roll 413, frame 0054, NA; Edwin Brooks, Complaints of Indian Grievances Relative to Homesteads, Grand Traverse Land District, Letters Received by the Office of Indian Affairs, February 1877, RG 75, M-234, roll 412, frame 0207, NA; John O. Shomin to George Lee, January 4, 1877, Letters Received by the Office of Indian Affairs, RG 75, M-234, roll 412, frame 0133, NA; Andrew Blackbird to George Lee, January 12, 1880, Letters Received from the Michigan Superintendency, 1877-1879, box 4; Andrew Blackbird to George Lee, February 27, 1879, Letters Received from the Michigan Superintendency, box 3, both in NA. For more on Indian-white relations and land-ownership issues, see Bruce Alan Rubenstein,

In 1853, on the eve of obtaining their civil rights, Ojibwe leaders characterized citizenship as “a weapon with which we may combat the prejudice & oppression of which our race has been the victims.” Yet once the assault on Indian land tenure began, neither local courts, congressional investigations, nor personal appeals to the president of the United States could slow the process of land loss. Even for a well-educated Indian like Andrew Blackbird, citizenship rights proved to be a rope of sand. After trying to help first his nephew, then his brother, and then his sister ward off the “land sharks,” Blackbird was forced to fight to keep his own allotment. He was able to protect his title, but the resulting legal battle required him to sell a portion of the land to raise cash. He fumed about the crooked ways of “sharp lawyer thieves” and the fact that in local courts, “an Indian has no chance for justice.”⁴⁰

Ironically, the rapacious and racist attacks on Indian land tenure in northern Michigan may have had the effect of strengthening Anishinaabeg identity. At a time when traditional and tribal institutions were ebbing, the injustices of white courts and local governments reminded Indians that even though they were citizens, they were not equal. The Odawa and Ojibwe communities became an emotional shelter when legal rights provided no hope and no protection from speculators. In 1880, after halfhearted and ineffectual attempts to intervene on the Indians’ behalf, the commissioner of Indians affairs estimated that Euro-Americans had taken control of more than 90 percent of all Anishinaabeg homestead entries and a large percentage of their allotments. Reflecting on what had occurred in the previous decade, one informed observer described the process as “wholesale robbery.”⁴¹

Conclusion

In 1887 Congress enacted the Dawes General Allotment Act as its new “one-size-fits-all” Indian policy. Detribalization, land distribution in severalty, and the promise of eventual citizenship formed the centerpiece of the new approach. It is a pity that the authors of the Dawes Act, who were so confident that what they did was in the best interests of the Indians, had not bothered to look at the experience of the Anishinaabeg in Michigan. All of the features of the Dawes Act had

“Justice Denied: An Analysis of American Indian-White Relations in Michigan, 1855-1889” (PhD diss., Michigan State University, 1974), 118-19.

⁴⁰ Rubenstein, “Justice Denied,” 118-19; Andrew Blackbird to the Commissioner of Indian Affairs, March 29, 1886, Letters Received from the Michigan Superintendency, box 298, NA.

⁴¹ Rubenstein, “Justice Denied,” 122-23.

been tried first in Michigan, and by the 1880s it was clear that these approaches had been deleterious to the economic interests and social welfare of Native Peoples.

In spite of the tragic results of Michigan's experiment with Indian citizenship, it should not be regarded as a failure. Citizenship meant that the Ojibwe and Odawa peoples could not be forcibly removed by the federal government. Anishinaabeg leaders worked assiduously for nearly two decades to acquire citizenship in order to protect their right to live on the lands where their ancestors were buried. This proactive strategy on the part of the Odawa and Ojibwe was not pursued as assiduously or as successfully by other Great Lakes Indians. Certainly by 1850 the Jacksonian removal machine was losing steam; yet as late as 1846 the "civilized" and economically successful Miami were forced out of Indiana.⁴² Citizenship did secure for the Ojibwe and Odawa peoples protection from the fate of the Indians who lived in Illinois and Indiana, as well as many Native Peoples in southern Michigan. It was the action of educated and dedicated Indian leaders that pushed the state to offer conditional citizenship, and it was Anishinaabeg agency that shaped the interpretation of those conditions. This legacy of political activism and the legal tools that became available with the acquisition of civil rights laid the foundation for the resurgence of tribal sovereignty in the second half of the twentieth century. State citizenship provided protection from the federal government, and it served as a useful halfway house on the road to the resurgence of tribal political identity.

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⁴² Bradley J. Birzer, "Jean Baptiste Richardville: Miami Métis," in *Enduring Nations: Native Americans in the Midwest*, ed. R. David Edmunds (Urbana: University of Illinois Press, 2008), 104.