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Negotiating Ojibwe Treaty Rights: Toward a Critical Geopolitics of State-Tribal Relations

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Social and political conflict appear to be the rule rather than the exception in contemporary relations among American Indians, their non-Indian neighbors, and the governments of the states in which they reside. Conflicts between states and tribes occur over issues such as land claims, casino gaming, taxation, environmental pollution regulation, zoning, water rights, hazardous waste disposal, mining, the protection of sacred places, and on- and off-reservation hunting and fishing treaty rights. Although the specific details of state-tribal relations vary from state to state and from tribe to tribe, a common thread underlies and structures the contours of these relations and conflicts. What ties these different conflicts together is that they center on the question of political control over geographical space. They revolve around the question of who has a legitimate claim to legal and political authority over reservation space and off-reservation spaces that are now situated as part of a state's territory. Such conflicts are fundamentally about differing constructions and interpretations of the spatial boundaries and spatial extent of state-tribal political relations. Understanding the political construction of the geographies of state-tribal relations requires an archaeology or excavation of the historically constituted assumptions about the spatial organization of political power as it emerged in Western societies and as it has been imposed by the Western colonial project.

What is being questioned and contested in these conflicts are Euro-American, state-centric conceptions of exclusive territorial sovereignty that deny and erase or seek to limit autonomous Indigenous geographies. Alternatively, American Indian (Indigenous) conceptions of political space assume an autonomous-sovereign space for Native peoples within the spatial confines of contemporary states. Moreover, American Indians and other

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Indigenous peoples challenge the exclusive territorial definition of the state. They propose alternative configurations of political space whereby territoriality is defined in nonexclusive terms and the authority and power to control space and natural resources are shared by states and Indigenous political entities. These claims of shared territoriality are based on American Indian perspectives and interpretations of treaty- and nontreaty-based rights of access to territories and natural resources outside the current boundaries of tribal reservations. In general, state-tribal conflicts emerge when understandings and conceptions of the structure, configuration, and boundaries of political space, what I refer to as political geographical imaginations, diverge and therefore clash.

In this article I provide a case study of how differing geographical imaginations are at the center of state-tribal relations in the United States. Specifically, I focus on the political conflict between the state of Wisconsin and the Wisconsin Ojibwe over the continuing existence and exercise of Ojibwe off-reservation hunting, fishing, and gathering treaty rights in northern Wisconsin. Beginning in 1974, the tribe and state fought a seventeen-year legal battle over the existence, definition, and exercise of off-reservation treaty rights. Extensive negotiation accompanied this litigation and led to the resolution of some contested issues outside the courtroom. Historians and legal scholars have devoted a great deal of attention to litigation, legal rhetoric, and judicial interpretation in treaty rights cases. In this article I turn my attention to the negotiation table as a site where state-tribal geographies are constructed, debated, and contested. Settlement negotiations, also utilized in a number of Indian water-rights cases, provide a window through which to understand how political actors use the negotiating table to contest and achieve a desired geographical result. By focusing on these specific negotiations I hope to shed light on how differing geographical imaginations structure the goals, strategies, and actions of specific state and tribal institutions and individuals.

This article is organized into four parts. First, I discuss the importance of geographical imaginations for the political identity of the state and Indian communities and for the construction of state-tribal relations. Second, I provide a historical-geographical interpretation of the Wisconsin Ojibwe treaty rights conflict. Third, I focus on the role of geographical imaginations in attempts to reach a negotiated settlement of the conflict. I conclude with a discussion of theoretical issues raised by this article.

TOWARD A CRITICAL GEOPOLITICS OF STATE-TRIBAL RELATIONS

Few scholars have developed a theoretical framework for understanding the political geography of American Indians and the role the geographical imagination plays in state-tribal relations. A recent review of American Indian studies makes no mention of geography or how a geographical perspective can inform understandings of the nature of American Indian sovereignty and conflicts with state governments.[1] Existing studies of American Indians and state-tribal relations fail to take into account spatial assumptions and the

power of geographical imaginations to shape litigation and negotiation. Case studies of state-tribal conflicts over off-reservation treaty rights say little about how geographical interpretations inform the contours of such conflicts.[2] For example, Larry Nesper's anthropological study of the Wisconsin Ojibwe treaty conflict focuses on how tribal-state conflict contributed to the revitalization and articulation of Ojibwe cultural identity.[3] Spatial goals, conceptions, frameworks—what I call the *geographical imagination*—remain unexamined, unquestioned, and untheorized.

Surprisingly, few geographers have turned their analytical lens on contemporary American Indian political geographies and state-tribal political relations. A recent review of the field of political geography gives scant attention to Indigenous peoples and no attention to the political geography of American Indians.[4] Geographer Imre Sutton wrote, "Rarely have geographers sought to define, much less explain, the complex political relationships that exist between Indian tribes and the federal and state governments." This article seeks to fill this theoretical gap and contribute toward the development of a critical geopolitics of American Indians. In order to develop a critical geopolitical account of American Indians, I begin with the assertion that American Indian political geographies are historical and political constructions. They are human geographies and the individual, collective, and institutional actions and decisions that create them are neither inevitable nor should they be considered "natural." Furthermore, the construction of American Indian political geographies must be contextualized and situated within the complex and unequal set of social, economic, and political relations characteristic of Euro-American colonialism. Colonialism (and postcolonialism) was an inherently geographical process characterized by the reterritorialization of Indigenous geographies and the construction of new spaces of state and tribal sovereignty. This reterritorialization was most often accomplished by legal means, through negotiated treaties, as well as by government-sponsored (military) and vigilante forms of violence.[5] American Indians were not passive victims in this geographical drama but struggled to maintain their political autonomy, territorial land base, and access to natural resources on and off their reservations. They resisted the incorporation of their lands and polities into the expanding political, economic, and cultural geography of the United States.

A critical geopolitics of American Indians, however, needs to problematize further the reorganization of Indigenous space in the construction of these colonial geographies. Existing approaches to the study of Indigenous peoples and their relations with formalized state systems take political space for granted. Instead, the explanatory focus is on how market forces shaped relations between European settler societies and Indigenous peoples.[6] Although much attention has been devoted to the material nature and the impact of colonialism, the colonial and postcolonial struggles "over geography" are not merely about "soldiers and cannons" and capital accumulation "but also about ideas, about forms, about images and imaginings."[7] Edward Said emphasized that a "geographical disposition" was essential to the very formation of "empire itself."[8] In this article I insist that the historical and

contemporary actions of states and American Indian tribes are structured by specific, historically constituted geographical imaginings: normative assumptions and taken-for-granted conceptions of political space.

The geographical disposition or political geographical imaginary that dominates Western colonial geopolitical thought and that necessarily enframes tribal geopolitical thinking is the state-centric model or the "sovereign territorial ideal."[9] According to this European-based political-geographic model, the world is partitioned into discrete and exclusive territorial units that enframe all of social and political life. After the sixteenth century, this European model became the dominant understanding of the spatial organization of political space.[10] Henri Lefebvre draws our attention to how the "sovereign territorial ideal," as a form of state-centric thinking, leads to the construction of a particular kind of state space. State space is a social production in that it is not a natural space but one produced by state personnel and actors. According to Lefebvre, the modern state promotes a uniform and homogenous space. The state seeks to destroy and repress internal differences that are cultural, political, and spatial. All states "produce a space wherein something is accomplished—a space, even where something is brought to perfection: namely, a unified and hence homogeneous society."[11] The state seeks to make its "representations of space"—the conceptualization of state space as uniform and homogeneous—hegemonic.[12] State personnel and residents are socialized into the state's representations of space, and they become taken for granted. Accordingly, alternative forms of conceptualizing and organizing political space are suppressed by the dominance of the "state-centric frame of understanding."[13]

But as Jones points out in a recent study, the state is a "peopled" organization that is diverse and plural. He argues that not all state officials or branches of state government "will automatically adhere to one unified and homogeneous representation of territory." If states are "fractured" entities then it follows that there will be debates and contests within the state regarding the territoriality of the state. Jones claims that although states may promote an "illusion of national territorial homogeneity," they are more characterized by "fractured and fissured" conceptions of territory. There is a contentious politics over the geographical imagination within the state. This means that the space of state-tribal relations is not pregiven, and that although a majority of state officials may assume a state-centric ideal of state space, it is important to recognize and examine differences within the state's geographical imagination and their impacts.[14]

The history of American Indians and other Indigenous peoples shows that they have not been completely suppressed and assimilated into the geography of the state. American Indian geographies disrupt the homogeneity and uniformity of the idealized territorial state. Lefebvre refers to this geography of anticolonial resistance and its geographical imagination as "spaces of representation."[15] These are the geographies and spatial conceptions that exist in opposition to the state's hegemonic construction of a uniform and homogeneous state space. For Indigenous peoples, including American Indians, "spaces of representation" are homelands such as reserves or reservations.

They also include off-reservation spaces that are former tribal homelands and locations where tribes claim treaty rights to hunt and fish. These are the spaces of resource comanagement where tribes claim rights to participate in decision making related to natural resource management, environmental protection, and economic development. It also includes claims to protect and control sacred, religious, and historically significant places outside the reservation.

If the state is a peopled organization, diverse and plural, then this raises the question of diversity of perspectives on space or "spaces of representation" in Indigenous communities. In this article, I examine an instance in which there is division, contestation, or a politics over how Native spaces ought to be conceived, imagined, and communicated. Difference within Native communities is not unique, is to be expected, and should not be conceptualized as a signal of assimilation or lack of difference from the dominant society. What one can expect is that within Indigenous communities there will be debate and contestation of the geographical imagination as well as the possibility of forging consensus or a hegemonic geographic perspective on the contours and boundaries of Native space.

AMERICAN FEDERALISM, GEOGRAPHICAL IMAGINATION, AND OFF-RESERVATION TREATY RIGHTS

The state-centric ideal or hegemonic geographical imagination of the state has been instrumental in constructing and defining political space within the United States. The framers of the US Constitution constructed a two-tiered political-territorial organization. Political space was divided into a national government and state governments. The Tenth Amendment to the Constitution limits federal powers and preserves state jurisdiction over internal matters within a state's borders: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The Tenth Amendment, however, does not necessarily supplant the supremacy of federal law. This was preserved in the supremacy clause of the Constitution, which says that federal treaties shall be the supreme law of the land. The result is that states are the sovereign power within their own territory unless federal law preempts state law. The sovereignty of the states within their borders is, therefore, not absolute but relative and limited by the powers granted to the federal government in the Constitution and by federal legislation and federal treaties.

American Indian communities represent a geography of difference and occupy an anomalous position within this normative political geographical structure.[16] They are neither states nor are they foreign nations. "They do not," according to Sutton, "represent a third entity in a tripartite governmental structure."[17] Yet contemporary American Indian communities are semiautonomous; they retain political rights and exercise certain governmental powers over specific areas within reservation space. This political geography developed as a result of the complex interplay of inherent Native sovereignty, British colonial Indian policies, and more than two hundred years of US Indian policies and federal judicial decisions. State officials and

non-Indians find it difficult to accept the semiautonomous status of Indian communities and the continuing viability of treaty rights. This inability stems from the deep-seated state-centered geographical imagination of many state officials and most non-Indians. There is no place for American Indian governments in the taken-for-granted, two-tiered political geographical framework of American federalism.

American Indian communities have not only resisted their integration into a state's political geographical framework but also have attempted to use their treaty rights as means of challenging state territorial jurisdiction on members' activities within, adjacent to, and outside the political borders of reservations. Indian treaty rights to hunt, fish, and gather outside their reservations constitute an especially important challenge to states' political geographical identity. This is reflected by the extensive and expensive legal battles states have waged against treaty rights and by the formation of antitreaty rights organizations throughout the United States. In keeping with a uniform and homogeneous representation of state space, states claim that they alone have the right to regulate the use of natural resources within their borders. Indian treaty rights to hunt, fish, and gather territorially displace or geographically preempt state territorial jurisdiction. Because Indian treaties negotiated between 1789 and 1871 are agreements between the federal government and various Indian communities, they are protected by the supremacy clause of the US Constitution. In general, Indian treaty rights supersede state rights, and Indians who exercise such rights outside the boundaries of reservations are extraterritorial to state laws and regulations.

Indian tribes in the United States have also employed their off-reservation treaty rights to challenge the state's territorial monopoly over spaces of natural resource management, environmental protection, and development. Tribes have sought comanagement of fish and wildlife and influence over the siting of industrial facilities and mines in their former homelands. Such claims amount to a reimagining of political space, a reconceptualization of the state's monopolization of territorial sovereignty over former tribal homelands. As tribes make claims for sharing of sovereignty and sharing of responsibility for what is now state space, they challenge what has come to be considered the "natural" political geographies of the state; they put into question the state-centric ideal of partitioning the earth into discrete and exclusive political territories.

RETERRITORIALIZATION OF POLITICAL SPACE IN NORTHERN WISCONSIN

In the first half of the nineteenth century the United States negotiated two treaties with the Ojibwe of Wisconsin as a means to gain possession and access to the pine forests and copper deposits of their northern Wisconsin territory. The result of these treaties was a cession of the Ojibwe homeland in Wisconsin, approximately the northern one-third of the present state of Wisconsin (fig. 1). In both treaties the Ojibwe reserved the right to hunt, fish, and gather on the ceded lands. Ojibwe leaders who negotiated the treaty

Figure 1. *Ojibwe land cession, 1837–1854. Map by University of Wisconsin Cartography Laboratory, 1999.*

provision sought to preserve access to the ceded territory as a way to maintain an Ojibwe economy and culture based on seasonal harvesting of fish, game, and plants at multiple locations throughout the territory.[18] Historian Ronald Satz provides evidence that Ojibwe leaders believed they could remain on the ceded lands as long as they did not harass non-Indian settlers. They assumed that American use of the timber and minerals from ceded lands would not result in their physical displacement or result in a change in their way of life.[19]

In February 1850 President Zachary Taylor revoked the Wisconsin Ojibwe's treaty rights and ordered their removal to unceded lands in Minnesota. The

Ojibwe met in councils to plan their resistance to the order to leave their homelands. In the spring of 1852 the Ojibwe sent a delegation to meet with President Millard Fillmore in Washington with the hope of persuading him to suspend efforts at removing the Ojibwe from their northern Wisconsin homelands.[20] The threat of removal ended when the Ojibwe signed a third treaty with the United States in 1854 that ceded lands in Minnesota along the north shore of Lake Superior and established four permanent reservations for the Wisconsin Ojibwe at Bad River, Red Cliff, Lac Courte Oreilles (LCO), and Lac du Flambeau. Two Ojibwe bands, the St. Croix and Mole Lake (or Sokaogon), were not granted reserves and remained landless until they were granted small reservations in the 1930s (fig. 2).

Over the course of the nineteenth century, the Ojibwe became integrated into the expanding market economy of northern Wisconsin. They worked as sawyers, log drivers, and railroad graders, and sold surplus fish, deer, wild rice, and lumber for cash. The Ojibwe, however, continued to practice and rely on their traditional subsistence activities in order to meet basic subsistence needs.[21] Ojibwe reservations were too small to meet their food needs, and many Ojibwe continued to hunt, fish, and gather wild rice off reservation in the ceded territory.

This pattern of reliance on off-reservation resources continued into the twentieth century. In 1920, a federal government survey of the Lac du Flambeau Reservation found that subsistence activities continued to be more important than farming or wage labor.[22]

During this time, the state and federal governments sought to fix the Ojibwe on their reservations spatially. Government officials wanted to "civilize" the Ojibwe and transform them into "capitalistic farmers" who would "eventually be absorbed into the larger white society." The Bureau of Indian Affairs sought to allot or break up communal Indian land holdings and to provide individuals with plots of land on which to practice agriculture.[23] Attempts at

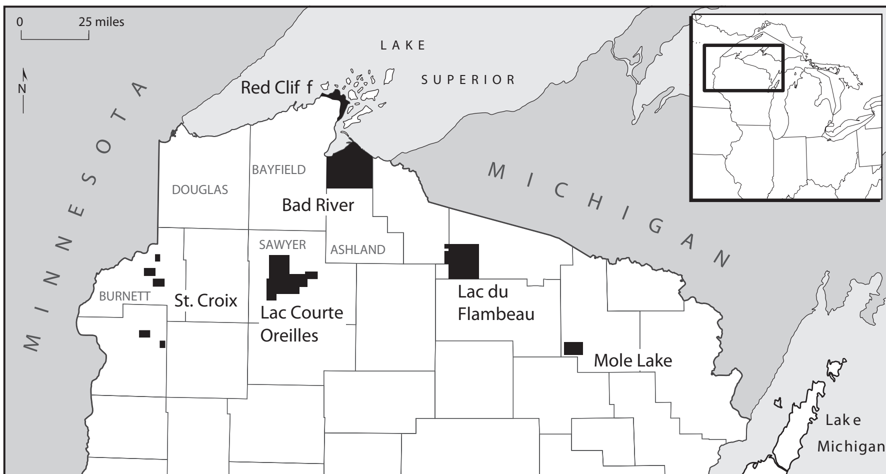

FIGURE 2. *Ojibwe reservations. Map by University of Wisconsin Cartography Laboratory, 1999.*

farming on Ojibwe reservations, however, were usually unsuccessful due to the region's short growing season, poor soils, and the Ojibwe males' association of agriculture with women's work.[24]

Although assimilationist goals motivated state and federal officials to fix the Ojibwe on their reservations, the state was also motivated by the economic goal of promoting northern Wisconsin as a region for tourism; as a place where vacationing non-Indians could experience "wilderness" and hunt and fish for sport. Ojibwe off-reservation harvesting of fish and game for subsistence and for sale did not fit with this regional image and was criminalized. The first known arrests of Ojibwe fishers and hunters came in August 1889 when Ojibwe from Red Cliff and Bad River were arrested for violating state laws limiting fishing in Lake Superior. The Indians involved maintained they had a treaty right to hunt and fish outside their reservations. Federal officials did little to support the Ojibwe's persistent perspective about having a treaty right of access to off-reservation harvesting territories.[25]

The state's criminalization of Ojibwe harvesting went hand in hand with the construction of the state as a uniform and homogeneous regulatory space. In an 1896 opinion, Wisconsin Attorney General W. H. Mylrea first articulated the state's conception of the political geography of state-tribal relations. The opinion, which formed the basis of the state's policy of regulating Indian treaty hunting and fishing rights into the twentieth century, said that the state had "unquestioned" police powers "to regulate and control the taking of fish and game" within its borders. Mylrea asserted that the treaty of 1842, which Indians claimed exempted them from state laws, had been "abrogated" in 1848 by the congressional act that created the state. The act of statehood "invested" the state with complete and "exclusive power over its territory."[26]

The first court case that tested the state's ability to implement its state-centered geographical imagination came five years later when John Blackbird, a member of the Bad River Band, was arrested for violating state fishing laws by setting a net on a small stream within the Bad River Reservation. The federal district court for the Western District of Wisconsin in Madison ruled against the state, saying: "After taking from them the great body of their lands . . . it would be adding insult to injury as well as injustice now to deprive them of the poor privilege of fishing with a seine for suckers in a little red marsh-water stream upon their own reservation."[27] The federal court decision disrupted the state's geographical imagination of a homogeneous regulatory state space and preserved the Ojibwe's autonomy and territoriality on their reservation.

A second court case that involved Ojibwe treaty rights to hunt and fish came before the Wisconsin Supreme Court in 1907. Michael Morrin, an Ojibwe, was arrested for illegally fishing with a gill and pond net in Lake Superior. Morrin, challenging the state's territoriality, claimed that the treaty of 1842 and 1854 exempted him from state fishing laws. The state's attorney, arguing for spatial uniformity within the state, argued that the treaties no longer provided the Ojibwe immunity from state laws. F. L. Gilbert, Wisconsin Attorney General, attacked the legitimacy of the treaty rights, claiming the federal government had no power to provide for any hunting and fishing

rights after the state was created in 1848. Gilbert concluded that Wisconsin had "absolute authority to enforce such [fish and game] laws, police regulations, *everywhere* within its boundaries."[28] The Wisconsin Supreme Court concurred with the state's state-centric arguments and found Morrin guilty. The decision confirmed the state's conception of the space of state-tribal relations and provided the state with the legal and moral authority to assert its territorial jurisdiction over both the off- and on-reservation usufructuary activities of the Wisconsin Ojibwe.[29]

From 1889 until 1983, Ojibwe Indians were arrested by state fish and game wardens when found hunting and fishing outside their reservations in the ceded territory. They were given fines and jail terms, their cars were impounded, and their rifles and fishing equipment were confiscated. The historical record shows that the Ojibwe consistently claimed a treaty right to hunt, fish, and gather on and outside their reservations on ceded lands. Ojibwe elders maintained that their ancestors had only sold certain kinds of timber and did not "sell" land to the United States. For example, in 1948, Ojibwe elder John Mustache said the Ojibwe only lent the land to the government so that "white people" could "make use of the land for garden [*sic*]."[30]

In the 1960s and 1970s the Ojibwe initiated several test legal cases that challenged the state's spatial vision and application of state laws to Ojibwe off-reservation hunting, fishing, and gathering. The most important case began in March 1974 when two Ojibwe from LCO were arrested for off-reservation spearing by wardens from the Wisconsin Department of Natural Resources (DNR). The local court, in keeping with almost one hundred years of legal-geographical understanding, found them guilty of breaking state conservation laws. In September 1974, LCO challenged the guilty verdict and the state's geographical imagination by filing an appeal in the federal district court for the Western District of Wisconsin. Federal District Judge James Doyle agreed with the state's interpretation of the historical geography of state power. In his 1978 ruling, Doyle found that "the evidence strongly implies" that the parties to the treaty of 1854 intended to extinguish "the general Indian claim of a right to occupy, and hunt, fish and otherwise obtain food on the earlier ceded lands."[31]

LCO appealed Judge Doyle's decision to the US Court of Appeals for the Seventh Circuit in Chicago. On 25 January 1983 a three-judge panel ruled, in what is called the Voigt Decision, in favor of the LCOs, affirming the continuing existence of the Ojibwe's off-reservation usufructuary rights.[32] The court said the available evidence did not support the state's contention that the government intended to terminate the treaty rights or that the Ojibwe understood that the 1854 treaty would abrogate their reserved usufructuary rights in the ceded territory. On 3 October 1983 the US Supreme Court declined to hear the case, thus upholding the seventh circuit's ruling. The case was returned to the district court for a series of trials that would define the exercise of the rights and the extent to which the state could regulate the treaty rights. The extensive litigation that followed resulted in eight published decisions and a final judgment in 1991. Key rulings of the district court are as follows:

- The Ojibwe may harvest all plants and animals that they harvested at the time of the treaties.
- They may use “traditional” and “modern” equipment and harvesting methods.
- The rights apply only to public lands.
- Their harvest, except for timber, may be sold to non-Indians.
- The state may regulate Indian harvesting only for conservation, health, and safety purposes.
- Effective tribal self-regulation preempts state regulation.
- The state is ultimately the sole manager of the resources.

In response to the 1983 Voigt Decision and the Ojibwe exercise of their treaty rights in the ceded territory, antitreaty rights groups such as Protect Americans Rights and Resources (PARR) and Stop Treaty Abuse formed and organized large, sometimes violent protests against treaty rights. Protesters threw rocks, screamed racial epithets, and harassed Ojibwe spearers on the water. The majority of the protests occurred in Vilas, Oneida, and Price counties. These counties, studded with lakes and extensive forests, comprise one of northern Wisconsin’s prime tourist and outdoor recreation areas. The largest protests were directed at spearers from the Lac du Flambeau Reservation, the most active group of Ojibwe spearers. Protest activities, which attracted national media attention, peaked in numbers and intensity in 1989 and ended in 1992 following the district court’s final judgment in the Voigt litigation (fig. 3).[33]

FIGURE 3. *Antitreaty protest and regional perceptions. Cartoon by Mike Thompson,* Milwaukee Journal*, ca. 1988.*

NEGOTIATION AND THE GEOPOLITICS OF TREATY RIGHTS

For almost three years, beginning in late 1986 and ending in the fall of 1989, the state of Wisconsin sought a permanent out-of-court settlement of the treaty rights with the Wisconsin Ojibwe. The state offered the tribes monetary and nonmonetary compensation in exchange for their agreeing to forgo or limit the exercise of their treaty rights, particularly the spearing of walleye and muskellunge. The state hoped to purchase what it had been unable to achieve through litigation: an end to the exercise of off-reservation Ojibwe treaty rights. The negotiations represent an attempt by the state to reimpose its territorial sovereignty over the ceded territory. A negotiated permanent settlement would restore—what state officials considered to be—normalcy to northern Wisconsin. The fish and game of the region would once again be managed by the DNR solely for the consumption of sportsmen. Moreover, a settlement would protect the state's authority by precluding Ojibwe claims for participating as coequals in state natural resources decision making and by preventing the Ojibwe from using their treaty rights to challenge the state's power to promote market-based resource and economic development in the ceded territory. The negotiations provide a window into the taken-for-granted views held by state officials about what constitutes proper and legitimate state authority. State officials, even today, find it extremely difficult to accept the court's decisions and the fact that state conservation laws are not applicable to Ojibwe hunters and fishers when they go off reservation to hunt and fish. Their views represent a deep-seated political geographical imagination that has its roots in the history of non-Indian settlement in Wisconsin, racist and ethnocentric attitudes toward American Indians, and the American court system's legal-geographical interpretations of the place of Indian nations within the geographical structure of American Federalism.

In addition to maintaining spatial "normalcy" and state control over the ceded territory, state officials were also motivated by a desire to protect the image of northern Wisconsin as a tranquil and natural playground for the tourist. As antitreaty rights protests became larger and larger, the regional and national media portrayed the "Northwoods" as a bigoted and violent place. Northern Wisconsin public officials and business persons urged state officials to negotiate a settlement with the Ojibwe. "Northern Wisconsin," one said, "be it just or not, is perceived as a fishless and racially bigoted vacationland. You've got our lives in your hands. Don't drag this thing out."[34] State officials thought that if a negotiated agreement ended or substantially reduced off-reservation Ojibwe harvesting, then protests would stop and the region would once again be perceived as a safe and friendly family vacationland. This was an image of the Northwoods that the state promoted for more than one hundred years.

Although state officials made compensation offers in 1984 and 1985, it was not until 1987 that the state initiated a serious effort to negotiate a comprehensive and long-term forbearance agreement with the Ojibwe. The impetus for more intense negotiations came with the election of Republican Tommy Thompson as governor in November 1986. Thompson, unlike his

predecessor Tony Early, voiced strong opposition to Ojibwe treaty rights. Whereas Early, a Democrat, opposed unilateral abrogation of the treaties and urged the public to accept the legality of the treaty rights, Thompson actively courted the antitreaty rights groups and encouraged the protest of treaty rights during his 1986 gubernatorial campaign. Speaking to the antitreaty rights group PARR in 1986, Thompson said: "I believe spearing is wrong regardless of what treaties, negotiations, or federal courts may say." He denied the distinct political status of the Ojibwe and the contractual nature of the treaties and called treaty rights "special privileges." Operating under the state-centric geographical assumption that state laws should apply to everyone within the state's territory, Thompson declared his "ultimate objective" was to "achieve equal rights." "There should not be," he said, "preferences or discrimination for or against any group of citizens."[35]

In April 1987, Wisconsin Attorney General Donald Hanaway invited the tribal chairs to meet and explore the possibility of a negotiated settlement. Only the chairman from Lac du Flambeau and Mole Lake responded. Members of the Wisconsin congressional delegation put pressure on the Ojibwe to negotiate with Hanaway. US Senator Robert Kasten said he might not support federal aid to the Ojibwe if they refused to negotiate with the state. Congressman F. James Sensenbrenner went further and introduced legislation that would abrogate the treaties. The abrogation bill, he said, was intended to "nudge two friends back to the negotiating table."[36] The Ojibwe were highly critical of such pressures to negotiate. They said the abrogation bill "was poorly timed" and represented a return to nineteenth-century "might makes right" colonial policies.[37] Despite these criticisms, closed-door negotiations between all six Ojibwe bands and the state began in August 1987, and by February 1988 the state presented the Ojibwe with a compensation proposal. The Ojibwe bands could not reach a consensus on the proposal and further negotiations ended between the state and all six Ojibwe bands.

Negotiations resumed, however, with the Lac du Flambeau, Mole Lake, and St. Croix bands. Of these three, only the Mole Lake and Lac du Flambeau negotiations would produce an agreement. The Mole Lake negotiations produced an agreement on 30 December 1988. According to the agreement, the state agreed to pay the Mole Lake $10.25 million dollars over ten years in exchange for limiting ceremonial spearfishing to one hundred walleye per year, no timber harvesting, and no selling of fish, game, or plants. Mole Lake would also have to drop out of the Voigt litigation and relinquish any claims of resource comanagement with the state. Although the Mole Lake tribal council unanimously approved the agreement, implementation was contingent on a tribal referendum. On 14 January 1989, the Mole Lake tribe voted overwhelmingly against the agreement. Tribal members who voted against the agreement were concerned about the negative economic and cultural impact of the loss of their treaty rights.[38]

Meanwhile, negotiators from the state and Lac du Flambeau met four times between October 1988 and March 1989. Negotiations broke off because of pressure from the Wa-Swa-Gon Treaty Association, a group of Lac du Flambeau spearfishers interested in maintaining and reviving Ojibwe cultural

traditions and who saw the treaty rights as integral to that cultural effort. Wa-Swa-Gon, which formed in February 1989, gathered more than four hundred petition signatures from tribal members urging the tribal council to end its negotiations with the state.[39] State officials and federal officials, however, put pressure on Lac du Flambeau to negotiate a settlement agreement. For many state officials, the federal government and not the state was seen as responsible for settling the dispute. Governor Thompson, seeking to modify the geographical scale of the settlement negotiations or, as he put it, "to bring the [treaty rights] issue to the attention of federal officials, where it truly belongs," made two trips to Washington and met with Interior Secretary Manual Lujan and John Sununu, President H. W. Bush's chief of staff. On both trips, Thompson pushed for the federal government to provide a federal mediator for the negotiations, pay for the increasingly high cost of law enforcement at the boat landings, and provide federal funds as part of any compensation package to the tribes.[40]

With mounting pressure from the state and the federal government, Lac du Flambeau resumed negotiations with the state, and an agreement was reached on 26 September 1989. Lac du Flambeau agreed to limit its spearing of walleye in exchange for a package of monetary and jurisdictional compensation for ten years. This would amount to a major reduction in the total number of walleye harvested by all the Ojibwe because Lac du Flambeau accounted for 70 to 80 percent of the off-reservation treaty spearfishing harvest. In exchange, the state promised $30 million dollars for a tribal trust fund plus funding for tribal social services, law enforcement, and conservation programs. The total compensation package was valued at $50 million dollars. The state would also enact legislation to allow Lac du Flambeau regulatory authority over non-Indian fishing on the reservation, and it would approve a compact that allowed casino gaming on the reservation, a compact that Governor Thompson had refused to sign in early September 1989.

Successful implementation of the agreement rested on the tribal and state negotiators carving up the ceded territory into tribal harvesting territories or spheres of influence consisting of discrete areas surrounding each band's reservation. In order for Lac du Flambeau to abide by the agreement and reduce its spearing harvest, it would have to keep the other Ojibwe bands from spearing "in the geographic area within which the Tribe has historically been the primary harvesting tribe." The other Ojibwe bands would be excluded from Lac du Flambeau's sphere of influence by the continuing participation of Lac du Flambeau in the intertribal natural resource allocation process. In this process, governed by an intertribal resource management agreement, Lac du Flambeau would claim fish harvest quotas for all lakes within the tribe's sphere of influence, thus preventing other non–Lac du Flambeau harvests from harvesting in the tribe's territory.[41]

Some state legislators, Democrats and Republicans, spoke out against the agreement because it cost too much, burdened state taxpayers instead of the federal government, included gaming provisions, was temporary, and did not include all the Ojibwe bands. State Senator Marvin Roshell, for example, complained about the temporary nature of the agreement and called for a

"final solution." Others such as State Senator Jerome Van Sistine and State Senator Robert Jauch were opposed to any settlement that did not include all the Ojibwe bands. They were concerned that the bands not bound by the agreement would spearfish from lakes in Lac du Flambeau's territory.[42]

Governor Thompson and other state officials defended the agreement as being in the state's best interest. According to Thompson, "The alternative is a continuation of the demonstrations on the landings, which caused a bad image for the state of Wisconsin."[43] The state's secretary of administration, James Klauser, indicated that the agreement would save the state at least two million dollars per year in law enforcement costs.[44] DNR Secretary C. D. Besadny argued that the agreement would protect the state's hunters and anglers, thus ensuring them a supply of fish and deer in areas adjacent to the Lac du Flambeau Reservation.[45] The governor assured skeptical legislators that the agreement's partitioning of the ceded territory was workable. According to Thompson, the other Ojibwe bands would not be "able to move into the territory of the Lac du Flambeau."[46]

Likewise, members of the Lac du Flambeau tribal council had to persuade tribal members to vote in favor of the agreement in a referendum scheduled for 25 October 1989. Council members argued that the agreement would provide economic benefits to the tribe as a whole, as well as enhance tribal sovereignty and control over on-reservation natural resources. The agreement reflects a reservation-centric spatial perspective whereby the tribe would gain greater control over non-Indian activities on the reservation and be able to develop a high-stakes gambling casino. Trying to persuade the tribal membership of the benefits of the agreement, tribal council members sought to stigmatize and marginalize their main organized opposition group, Wa-Swa-Gon, by calling them greedy and self-serving and by accusing them of working against the interests of the community.

Wa-Swa-Gon mounted an aggressive attack on the agreement and the tribal council. It claimed that the tribal council was self-serving and that the majority of tribal members would not benefit from the agreement. According to Wa-Swa-Gon member Gilbert Chapman, only those "people who are working in our tribal government and control the money would be making more money and the rest of the members would get nil."[47] Members of Wa-Swa-Gon argued that the treaties and treaty rights were critical to the preservation of the Ojibwe cultural identity. The treaties, they said, connected tribal members with their ancestors and with future generations. A settlement, Wa-Swa-Gon maintained, would dishonor their ancestors. "Our ancestors," they said, "had been coerced, threatened, injured, and killed, and in anguish, signed these Treaties, but with forethought to the Future Generations. Any money received for selling our Rights will be blood money."[48]

Wa-Swa-Gon was supported in its effort to defeat the settlement agreement by the other Ojibwe bands. LCO Tribal Chair Gaiashkibos lent his support, stating that "we must stand firm in resisting efforts to trade our heritage and culture for economic gain."[49] Members from Bad River and Red Cliff announced they would join Wa-Swa-Gon members and spear and gillnet in lakes located in the self-proclaimed Lac du Flambeau harvesting territory.

This fishing outing was consciously planned as a violation of the territorial provisions of the settlement agreement and thus a challenge to the Lac du Flambeau tribal council's spatial authority. Andre Gokee, a Red Cliff member, said the outing was a "symbolic act, to demonstrate that we can fish there."[50]

The fishing outing and the discourse of cultural continuity represent efforts to challenge the Lac du Flambeau tribal council's legitimacy and authority to create a fragmented and reservation-based geography for the ceded territory. Settlement opponents articulated their own alternative, oppositional, and nationalist Ojibwe spatial ideology for the territory. They claimed that the ceded territory could not be divided into individual tribal zones or territories. Rather, in a manner quite similar to the state's construction of state space, they viewed the ceded territory as a unified and undivided Ojibwe national space or homeland. The territorial provisions of the settlement agreement threatened to divide this space and, therefore, opponents said, threatened the national identity of the Ojibwe. According to Tom Maulson, one of the leaders of Wa-Swa-Gon, "These lakes were reserved by our forefathers for the whole Ojibway nation, not just certain tribes. We shouldn't be putting buffer zones up like the Iron Curtain in Germany."[51] The settlement agreement, therefore, would impose an immoral geography, unnaturally dividing a unified, Ojibwe homeland.

Lac du Flambeau Tribal Chairman Mike Allen contested Wa-Swa-Gon's claims that the ceded territory was a unified Ojibwe national space. He countered that the Ojibwe had divided the ceded territory into harvesting territories. He cited a conflict that surfaced in 1988 over whether members from Lac du Flambeau and Bad River could spearfish on lakes located near the LCO Reservation. At that time the LCO Governing Board went on record as being opposed to other bands "infringing upon our area fisheries." The conservation director at LCO reported at that time that it was "assumed that each tribe would respect the other tribes' area and not cross the line unless asked." Lac du Flambeau, he said, had wanted to "come over and get some walleyes" since the Voigt Decision, and that LCO had consistently told Lac du Flambeau "they weren't welcome."[52] Thus, in contrast to Wa-Swa-Gon's nationalist spatial vision, Allen could claim that other bands were involved in the partitioning and fragmenting of the ceded territory into harvesting territories and spheres of influence.

Security was tight at the Lac du Flambeau tribal offices during the referendum on the settlement agreement. Law enforcement personnel guarded entrances to the polling place after Chairman Allen received death threats and threats to disrupt the vote. Wa-Swa-Gon members stood across from the polling place urging tribal members to vote against the agreement. The settlement agreement was defeated by a vote of 439 to 366. Wa-Swa-Gon members viewed the vote as a vindication of their cultural, political, and spatial ideology.

The governor, secretary of administration, and the attorney general were surprised and disappointed by the results of the referendum. They viewed the vote as a defeat of the "more moderate group" and a victory for the "militants." According to Secretary of Administration James Klauser, "The militants

FIGURE 4. *Reactions to rejection of the negotiated settlement agreement. Cartoon by Bill Sanders,* Milwaukee Journal*, 7 October 1989.*

prevailed. That's unfortunate and regrettable. It is regrettable that the moderates lost. They were interested in their community."[53] US Congressman David Obey added his voice to Klauser's and contributed to the state's attempt to vilify and politically marginalize Wa-Swa-Gon and its supporters. Obey called Wa-Swa-Gon members "extremists" and "hell raisers." He interpreted the referendum as a sign that Lac du Flambeau wanted "to be treated solely as a separate nation with no room for compromise or accommodation" and told Lac du Flambeau officials they would receive no assistance from his office in requests for federal funds and projects (fig. 4).[54]

CONCLUSION

The Lac du Flambeau referendum defeat ended the state's efforts to negotiate a comprehensive out-of-court settlement with the Wisconsin Ojibwe. Following the referendum the state did not, however, give up on trying to minimize, or eliminate, the impact of the treaty rights on its political authority over the ceded territory. It planned to litigate the remaining disputed issues with the Ojibwe and then appeal the decision of the district court to the Seventh Circuit Court of Appeals and, if necessary, the US Supreme Court. In 1990 and 1991, the district court issued three rulings, all in favor of the state's

position. The court decided to allocate the natural resources of the ceded territory evenly between the state and Ojibwe. The court ruled that the state was not liable for past monetary damages because it deprived the Ojibwe of their rights, and it ruled that the treaty rights did not include a right to harvest commercial timber resources in the ceded territory.

Because of these "victories," along with an earlier court decision upholding the state as the "ultimate authority" over the natural resources of the ceded territory, as well as a reduction in the severity and size of antitreaty rights protests, the state decided not to appeal the final district court judgment of February 1991. According to Wisconsin Attorney General James E. Doyle Jr., an appeal of the district court's final judgment might place the state's "significant victories at risk."[55] Ojibwe leaders also decided not to appeal the final judgment, saying they were "now secure in the conviction that they have reserved these rights for generations to come."[56]

Wisconsin's efforts to use negotiation, in addition to litigation, as a means of eliminating or minimizing Ojibwe off-reservation treaty rights, and thus restoring the state's control over resource use within its borders, is not unique. Other states have also used or attempted to use negotiation in addition to and instead of litigation as a way of minimizing or preventing the exercise of off-reservation treaty rights. For example, Michigan's Ojibwe and Ottawa Indians and the state of Michigan reached an out-of-court agreement in 1985 that divided Lake Michigan, Lake Huron, and Lake Superior into zones of commercial Indian treaty fishing and non-Indian sports fishing. In this instance, the negotiated agreement, according to Robert Doherty, was a victory for Michigan because it "regained control" over the "money-making sport fishing areas."[57] In 1988 Minnesota and the Grand Portage, Nett Lake, and Fon du Lac Ojibwe communities reached an out-of-court settlement whereby the state agreed to pay five million dollars annually, and in exchange the Ojibwe agreed to relinquish most of their off-reservation hunting and fishing treaty rights. In 1993, the Minnesota legislature, under strong pressure from sport fishing and hunting groups, defeated a negotiated out-of-court settlement with the Mille Lacs Ojibwe. This agreement, supported by the governor, attorney general, and the Minnesota DNR and approved by Mille Lacs in a tribal referendum, would have paid the tribe ten million dollars, provided them with control over 4.5 percent of Lake Mille Lacs—a popular destination for Twin Cities anglers—and give the tribe 7,500 acres of public land. In return, the Mille Lacs tribe agreed to drop its federal lawsuit asserting a treaty right to hunt, fish, and gather outside their reservation in parts of twelve Minnesota counties. After the state legislature defeated the negotiated settlement, the case went to federal court, and in 1999 the US Supreme Court ruled in favor of the Mille Lacs Ojibwe.

In these specific cases and in other instances in which states and tribes are involved in contesting the meaning of nineteenth-century treaties and more generally the spatial extent of the political powers of American Indian communities, those in control of the state apparatus are guided by a set of normative political geographical principles or geographical imagination. According to this geographical imagination the state should have (and

must protect) exclusive and unchallenged sovereignty over its territory. As expressed by state representatives this constitutes a normalizing spatial and political discourse, a "sovereignty discourse" according to which political authority is understood to be centered solely in the state apparatus.[58] The political autonomy of Indian communities and assertions of off-reservation Indian treaty rights represent a challenge to this normalizing sovereignty discourse of the state and to the geographical assumptions held by most state officials and non-Indian citizens.

Sovereignty discourse represents a spatial ideology; it remains unquestioned and is assumed, by the majority, to be the normal, even natural, form of political geographical organization. This is not to suggest that there is no opposition, dissent, or even resistance within the dominant society and within the state apparatus to the dominant sovereignty discourse. It clearly exists and becomes articulated as an oppositional discourse and alternative sociospatial ideology. In Wisconsin, for example, some legislators were opposed to settlement negotiations and the pressuring of Ojibwe to relinquish their treaty rights. Instead, they were more willing to respect tribal sovereignty and to deal with the tribes on a government-to-government basis. This was especially true for some, like Wisconsin Assembly Leader Thomas Loftus and Assemblyman Frank Boyle, who advocated treating the tribes as equal partners and sharing management of the natural resources of the ceded territory.

Even among those subscribing to the dominant spatial ideology there may be disagreement over how to achieve specific political geographical goals. For example, Wisconsin Governor Anthony Earl hoped to reduce antitreaty protests and restore normalcy to northern Wisconsin by promoting negotiations between the Ojibwe and the leaders of adjacent (local) communities. His successor, Governor Tommy Thompson emphasized federal involvement as the solution to the treaty rights "problem." Disagreement also surfaced among Wisconsin legislators over whether the settlement agreement with the Ojibwe could succeed and best serve the state's interests. In Minnesota, the governor, attorney general, and the DNR all supported a negotiated agreement with the Mille Lac Ojibwe instead of litigation. The negotiated agreement was defeated, however, by state legislators who disagreed with these state officials and thought the state's interests would be preserved through litigation.

Political geographers, therefore, need to be concerned not only with identifying and describing dominant spatial ideologies, political geographical discourse, and alternative, oppositional, or subordinate spatial ideologies but also must keep in mind the diversity of views held by political actors on how to implement and turn these spatial ideologies into concrete actions, actions that have material and geographical consequences. This means studying and learning how such discourses and spatial ideologies are connected to political action: how they function to support, legitimize, and motivate political action whether or not it is in the form of litigation, negotiation, protest, or policing and the use of military force.

My narrative of the politics that surround the Wisconsin Ojibwe treaty rights settlement negotiations also reveals that the Ojibwe, like the state, were guided by normative geographical visions of the ceded territory. The Ojibwe

political geographical imagination and discourse, like the state's, was not devoid of difference. Instead, we see differences between and within Wisconsin's six Ojibwe communities over the geographical interpretation of treaty rights and how to use treaty rights to serve the economic, cultural, and political interests of their communities best. Some Ojibwe leaders saw it in the best interests of their community to negotiate forbearance agreements with the state while others did not. At Lac du Flambeau, for instance, tribal leaders viewed a treaty rights settlement agreement as a means to obtain funds for economic development and increase sovereignty over reservation space. The agreement was impossible without Lac du Flambeau officials dividing and fragmenting the ceded territory, in accordance with their geographical vision, into a set of spheres of influence over which each Ojibwe community enjoyed a monopoly harvest of the area's fish, game, and plants. Opposition within the Lac du Flambeau community to the settlement agreement was based on notions of the cultural and historical importance of treaty rights. Opposition was also based on a different geographical imagination or an oppositional sovereignty discourse that viewed the ceded territory as a unified Ojibwe homeland and national space over which the Ojibwe were entitled to participate as equal partners with the state in the development and management of the territory's natural resources. Thus, it is important to emphasize and recognize that differences also exist within subordinate, less powerful groups over what constitutes normative and proper spatiality and what ought to be the best course of action in protecting and enhancing the community's sociospatial interests.

Geography, I have argued, is key to understanding the geopolitics of state-tribal relationships within the United States. How people, both Indian and non-Indian, interpret and imagine the spaces for American Indian communities within the dominant political, economic, and cultural spatial order of the United States is crucial to understanding the interactions—often conflicts—between Indians and non-Indians in the United States. Recognizing difference, between and within both dominant and subordinate groups, is critical toward theorizing the geographical imagination and in understanding the power of these spatial interpretations to create, support, and legitimize political actions and the resulting material and imagined geographies of power.

NOTES

1. Clara Sue Kidwell and Alan Velie, *Native American Studies* (Lincoln: University of Nebraska Press, 2005).

2. Faye G. Cohen, *Treaties on Trial: The Continuing Controversy over Northwest Indian Fishing Rights* (Seattle: University of Washington Press, 1986); Robert Doherty, *Disputed Waters: Native Americans and the Great Lakes Fishery* (Lexington: University Press of Kentucky, 1990); Ronald Satz, *Chippewa Treaty Rights: The Reserved Rights of Wisconsin's Chippewa Indians in Historical Perspective* (Madison: Wisconsin Academy of Sciences, Arts and Letters, 1991); Bruce E. Johansen, ed., *Enduring Legacies: Native American Treaties and Contemporary Controversies* (Westport, CT: Praeger, 2004); Lawrence Bobo and Mia Tuan, *Prejudice in Politics: Group Position, Public Opinion, and the Wisconsin Treaty Rights Dispute* (Cambridge, MA: Harvard University Press, 2006); Larry Nesper, "Treaty

Rights," in *A Companion to the Anthropology of American Indians,* ed. Thomas Biolsi (Malden, MA: Blackwell Publishing, 2004), 304–20.

3. Larry Nesper, *The Walleye War: The Struggle for Ojibwe Spearfishing and Treaty Rights* (Lincoln: University of Nebraska Press, 2002); also see Larry Nesper, "Ironies of Articulating Continuity at Lac du Flambeau," in *New Perspectives on Native North America: Cultures, Histories, and Representations,* ed. Sergei Kan and Pauline Turner Strong (Lincoln: University of Nebraska Press, 2006), 98–121; Larry Nesper and James H. Schlender, "The Politics of Cultural Revitalization and Intertribal Resource Management: The Great Lakes Indian Fish and Wildlife Commission and the States of Wisconsin, Michigan and Minnesota," in *Native Americans and the Environment: Perspectives on the Ecological Indian,* ed. Michael E. Harkin and David Rich Lewis (Lincoln: University of Nebraska Press, 2007), 277–303.

4. John Agnew, Katharyne Mitchell, and Gerard Toal, eds., *A Companion to Political Geography* (Malden, MA: Blackwell Publishing, 2003).

5. Sidney Harring, *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century* (Cambridge: Cambridge University Press, 1994); Robert A. Williams, *The American Indian in Western Legal Thought: The Discourses of Conquest* (New York: Oxford University Press, 1990); Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California Press, 1994); Stephen Cornell, *The Return of the Native: American Indian Political Resurgence* (Oxford: Oxford University Press, 1988).

6. See Richard J. Perry, *From Time Immemorial: Indigenous Peoples and State Systems* (Austin: University of Texas Press, 1996); Donald L. Fixico, *The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources* (Niwot: University Press of Colorado, 1998); Augie Fleras and Jean Leonard Eliot, *The "Nations Within": Aboriginal-State Relations in Canada, the United States, and New Zealand* (Toronto: Oxford University Press, 1992); David Maybury-Lewis, *Indigenous Peoples, Ethnic Groups, and the State* (Boston: Allyn and Bacon, 1997).

7. Edward Said, *Culture and Imperialism* (New York: Knopf, 1993), 7.

8. Edward Said, "Representing the Colonized: Anthropologies Interlocutors," *Critical Inquiry* 15 (1989): 218. Also see Paul Carter, *The Road to Botany Bay: An Essay in Spatial History* (London and Boston: Faber and Faber, 1987); Timothy Mitchell, *Colonising Egypt* (Cambridge: Cambridge University Press, 1988).

9. Geographers adapted Edward Said's ideas and employ the terms *imaginative geographies* and *geographical imaginations* to refer to the power of certain spatial or geographical conceptions that may or may not represent "reality." E.g., see Derek Gregory, *Geographical Imaginations* (Oxford: Blackwell, 1994) or Robert Vanderbeck, "*Vermont* and the Imaginative Geographies of American Whiteness," *Annals of the Association of American Geographer* 96, no. 3 (September 2006): 641–59.

10. Alexander Murphy, "The Sovereign State System as Political-Territorial Ideal: Historical and Contemporary Considerations," in *State Sovereignty as Social Construct,* ed. Thomas J. Biersteker and Cynthia Weber (Cambridge: Cambridge University Press, 1996), 81–120. Scholars have studied the conceptual dominance and effects of state-centric thinking on theorizing in the social sciences (Peter J. Taylor, "The State as Container: Territoriality in the Modern World-System," *Progress in Human Geography* 18 [1994]: 151–62) international relations theory (John Agnew, "The Territorial Trap: The Geographical Assumptions of International Relations Theory," *Review of*

International Political Economy 1 [1994]: 53–80; John Ruggie, "Territoriality and Beyond: Problematizing Modernity in International Relations," *International Organization* 47 [1993]: 139–74; Thom Kuehls, *Beyond Sovereign Territory: The Space of Ecopolitics* [Minneapolis: University of Minnesota Press, 1996]).

11. Henri Lefebvre, *The Production of Space* (Oxford: Blackwell, 1991), 281.

12. Ibid., 41.

13. Michael J. Shapiro, *Violent Cartographies: Mapping Cultures of War* (Minneapolis: University of Minnesota Press, 1997), 16.

14. Rhys Jones, *People/States/Territories* (Malden, MA: Blackwell Publishing, 2007), 35.

15. Lefebvre, *The Production of Space.*

16. At the end of this paragraph I say there is no place for Indian spaces within the space of federalism. The geography of federalism is simple; it is two political spaces. However, Indian nations disrupt this simplicity—literally a different space or space of difference from the states and their presumed homogenous political space.

17. Imre Sutton, "The Political Geography of Indian Country: An Introduction," *American Indian Culture and Research Journal* 15, no. 2 (1991): 1.

18. Francis Densmore, *Chippewa Customs* (Washington, DC: Smithsonian Institution, Bureau of American Ethnology, 1929; repr., St. Paul: Minnesota Historical Society, 1979); Thomas Pfaff, *Paths of the People: The Ojibwe in the Chippewa Valley* (Eau Claire, WI: Chippewa Valley Museum Press, 1993); Edmund Danziger, *The Chippewas of Lake Superior* (Norman: University of Oklahoma Press, 1979); Thomas Vennum, *Wild Rice and the Ojibway People* (St. Paul: Minnesota Historical Society Press, 1988); Charles Cleland, *Rites of Conquest: The History and Culture of Michigan's Native Americans* (Ann Arbor: University of Michigan Press, 1992).

19. Chief Martin of the LCO informed Commissioner of Indian Affairs T. Hartley Crawford that he and his "brother chiefs" refused to sign the treaty until American negotiators promised they could "live on the land as long as [they] behaved well & are peaceable with our grand father & his white children." Satz, *Chippewa Treaty Rights*, 23, 37–42.

20. James Clifton, "Wisconsin Death March: Explaining the Extremes in Old Northwest Indian Removal," *Transactions, Wisconsin Academy of Sciences, Arts, and Letters* 75 (1987): 1–39.

21. Patricia Shifferd, "A Study in Economic Change, the Chippewa of Northern Wisconsin: 1854–1900," *The Western Canadian Journal of Anthropology* 6 (1976): 16–41.

22. Anthony Gulig, *In Whose Interest?: Government-Indian Relations in Northern Saskatchewan and Wisconsin, 1900–1940* (PhD diss., University of Saskatchewan, 1997), 114–15.

23. Satz, *Chippewa Treaty Rights*, 73–78; Patty Loew, *Indian Nations of Wisconsin: Histories of Endurance and Renewal* (Madison: Wisconsin Historical Society Press, 2001). Allotment reduced the Ojibwe land base from 217,652 to 160,561 acres. The loss of these lands meant that access to off-reservation hunting and gathering territories remained important to Ojibwe subsistence.

24. Pfaff, *Paths of the People*, 42.

25. In 1894, W. A. Mercer, Acting Indian Agent at the La Pointe Indian Agency in Ashland, WI, reported to Acting Commissioner of Indian Affairs, D. M. Browning, that Indians were prevented from using certain kinds of fishing nets in Lake Superior

by state wardens despite the Indians claiming a treaty right to hunt and fish in any manner. Browning replied that "in the absence of any knowledge of a decision of the courts" regarding Indian treaty rights in Wisconsin, Mercer should "impress upon the minds of your Indians the advisability of complying with the State laws." D. M. Browning, Commissioner of Indian Affairs to W. A. Mercer, Acting Indian Agent, La Pointe Agency, Ashland, WI, 25 June 1894. Series 644, Wisconsin Department of Justice Closed Case Files, box 2, folder 5, State Historical Society of Wisconsin Archives (SHSWA).

26. W. H. Mylrea, Wisconsin Attorney General to G. H. McCloud, 26 June 1896. Series 644, Wisconsin Department of Justice Closed Case Files, box 2, folder 5, SHSWA.

27. Re *Blackbird* 109 F. 145 (1901).

28. State of Wisconsin, Plaintiff's Brief in *State of Wisconsin v. Michael Morrin*, Wisconsin Supreme Court Cases and Briefs, vol. 902. Madison: Wisconsin State Law Library (emphasis added).

29. *State v. Morrin* 136 Wis. 556 (1908).

30. US Indian Claims Commission, 1948. The statements by Mustache and other Ojibwe elders show remarkable continuity with a bilingual petition sent to Commissioner of Indian Affairs William P. Dole by a group of Ojibwe chiefs and warriors in 1864. Part of the 1864 petition below (quoted in Satz, *Chippewa Treaty Rights,* 27) echoes the comments made by Mustache and is revealing of how the Ojibwe understood the 1837 treaty negotiations

> So, then Father, Our Great Father requests me to sell him my Pine Timber, our Great Father is mighty, therefore whatever he says would not be in vain, and whatever he promises to do he will fulfill.
>
> Very well, I will sell him the Pine timber as he requests me to. From the usual height of cutting a tree down and upwards to top is what I sell you. I reserve the root of the tree. Again this I hold in my hand the Maple Timber, also the Oak Timber, also this Straw which I hold in my hand. Wild Rice is what we call this. These I do not sell.
>
> That you may not destroy the Rice in working timber. Also the Rapids and Falls in the Streams I will *lend* you to sw your timber, also a small tract of land to make a garden to live on while you are working the timber.
> I do not make a present of this, I merely *lend* it to you.

31. *Lac Courte Oreilles Band of Lake Superior Chippewa Indians et al. v. Lester Voigt et al.* reported sub. nom. *United States v. Ben Ruby and sons et al.* 464 F. Supp. 1361 (1978).

32. *U.S. v. Ben Ruby,* F. Supp. 1361.

33. See Satz, *Chippewa Treaty Rights* and Rick Whaley and Walter Bressette, *Walleye Warriors: An Effective Alliance against Racism and for the Earth* (Philadelphia: New Society Publishers, 1994).

34. Jeff Long, "Hanaway Calls Settlement Only Way Out," *Milwaukee Sentinel,* 27 April 1989. Long is a businessman and was town chairman of a small northern Wisconsin community.

35. Tommy Thompson, speech to PARR, Minocqua, WI, 18 June 1986. Governor Thompson Records, 1987–1990, box 15, Native American File, SHSWA.

36. "Bill Would Repeal Treaty Rights," *Milwaukee Sentinel*, 29 July 1987.

37. James Schlender, letter to J. Sensenbrenner, reprinted in *Masinaigan* (Odanah, WI), August 1987, 2. Lac du Flambeau tribal attorney James Jannetta called the bill an "exercise in political demagoguery." "Sensenbrenner Rapped for Treaty Abrogation Bill," *The Lakeland Times*, 31 July 1987.

38. "Tribe Says No to Buyout Plan," *Appleton Post Cresent* (Appleton, WI), 15 January 1989.

39. "Treaty Association Wants Talk Halted," *The Lakeland Times*, 24 March 1989.

40. "Long-term Spear Accord Urged Now," *Wisconsin State Journal*, 8 May 1989; "Thompson Defends Spearfishing Action," *La Crosse Tribune*, 2 June 1989.

41. Lac du Flambeau Band of Lake Superior Chippewa Indians/State of Wisconsin Agreement of 1989, State Historical Society of Wisconsin.

42. "Long-term Spear Accord Urged Now," *Wisconsin State Journal*; "Treaty Settlement Will Merely Shift Protests to New Sites, Jauch Warns," *Milwaukee Journal*, 4 October 1989.

43. "GOP May Give Thompson Trouble on Treaty Pact," *Milwaukee Sentinel*, 28 September 1989.

44. "Treaty Deal's Price Tag Defended by Klauser," *Milwaukee Journal*, 30 September 1989.

45. C. D. Besadny, Secretary, Wisconsin DNR, Memorandum to DNR Employees, 5 October 1989. Copy courtesy of Mike Lutz, Wisconsin DNR, Madison, WI.

46. "Lack of Treaty Pact Linked to Law Costs," *Milwaukee Sentinel*, 29 September 1989.

47. Gilbert Chapman, letter to the editor, *The Lakeland Times*, 21 July 1989.

48. Wa-Swa-Gon Treaty Association, Response to Resolution No. 230 (89), July 1989. Nick Van Der Puy Papers, Treaties as Law File, SHSWA.

49. "Lac Courte Oreilles Spurn Treaty Talks," *Milwaukee Sentinel*, 20 July 1989.

50. "3 Chippewa Band to Spear Saturday," *Milwaukee Sentinel*, 6 October 1989.

51. Ibid.

52. "Tribal Spearers Are at Odds as Season Ends," *Sawyer County Record*, 4 May 1988; "Chippewa Have Internal Dispute on Spearing," *Milwaukee Sentinel*, 30 April 1988.

53. "State May Step Up Litigation," *The Lakeland Times*, 31 October 1989.

54. "Reaction Swift and Strong after Tribal Referendum Vote," *The Lakeland Times*, 31 October 1989.

55. James E. Doyle Jr., son of the late Federal District Judge James Doyle, succeeded Donald Hanaway as Wisconsin Attorney General in 1991.

56. Satz, *Chippewa Treaty Rights*, 195–97.

57. Doherty, *Disputed Waters*.

58. Joseph Camilleri and Jim Falk, *The End of Sovereignty? The Politics of a Shrinking and Fragmenting World* (Hants, UK: Edward Elgar Publishing, 1992).