

Morality vs. Legality: Michigan's Burt Lake Indians and the Burning of Indianville

by
Matthew J. Friday

By 1900, Native Americans had lived for nearly three centuries on and around a small point of land jutting into northern Michigan's Burt Lake. A small village on the peninsula known as "Chaboigan" or "Indianville" was home to many of them. These Indians believed that their land held in trust was tax exempt, creating a de facto reservation. But a timber speculator named John McGinn thought otherwise. He had purchased a sizeable section of land for back taxes on Cheboygan County's Burt Lake, land that had once belonged to the area's Native-American population. And on a rainy day in October 1900, he decided to take what was his. Together with the county sheriff Fred R. Ming and some deputies, McGinn proceeded to seize the property, on which stood the small Indian village known as Indianville.

As soon as the men arrived at the village, they immediately began to empty the Indians' log cabins, depositing the residents' few possessions on the community's single dirt road. Most of the men who lived in the village worked in the area's lumber industry, and as it was payday, they were in Cheboygan collecting their wages. Only women, children, and the elderly were left in Indianville that day. McGinn and his men proceeded to douse the houses with kerosene and set them on fire. Within a few minutes the entire village, about fifteen buildings in all, was in flames.¹ Decades later, tribal chief John Parkey noted that the conflagration could be seen for many miles.² Those who called Indianville home could do nothing. Defenseless and without recourse, they could only watch as the flames consumed their homes. A small Catholic church was the only structure that was spared.³

¹ *Cheboygan Democrat*, October 7, 1900.

² John Parkey to Ellis Olson, June 23, 1969, in Historical Society of Cheboygan County, Collection 2004-2005, Clarke Historical Library, Central Michigan University, Mt. Pleasant.

³ *Cheboygan Democrat*, October 7, 1900.

The Indians had no place to go. The land on which they had been living had been theirs for many generations. Now, with no homes, no land, and no real understanding of the reasons behind what had happened, they were left to fend for themselves. As the fire raged, the bewildered villagers sat in the rain. Finally, young and old alike, they trudged to Cross Village, which was about twenty-five miles away. One extraordinary woman named Negonee reportedly made this arduous journey at the age of 106.⁴

This brutal eviction is perhaps one of the least-known and least-understood incidents in the long history of Native-American struggles in Michigan. It still evokes an emotional response and is rife with controversy and ambiguity. Although white people's dealings with Michigan's Native Peoples were often morally dubious and sometimes illegal, an examination of the facts surrounding this case indicates something more complicated. Although it was unquestionably immoral, the eviction of the Indians and the burning of Indianville were within the law. This does not make McGinn's actions acceptable, but it does shed light on how and why Native Americans were treated the way they were, and how the adroit use of tax laws allowed white people to seize their land legally. Historians have asserted that the destruction of Indianville and the seizure of the occupants' land were criminal acts, but the facts underlying the case reveal that these acts were *not* illegal, but rather the result of confusion regarding treaties, trusts, and tax laws.

The Indian settlement at Burt Lake was a long-established Native-American community. By the seventeenth century, a number of different tribes lived in the upper Great Lakes region. At the tip of the Lower Peninsula, the Ottawa and Chippewa (Ojibwe) tribes were the most populous groups. As white influence increased in the Northwest Territory, zealous missionaries sought to convert the Native Peoples to Christianity. In the region that would become northern Michigan, Frederic Baraga stands out as noteworthy. By about 1838, Father Baraga's travels brought him to Burt Lake. Here, on the peninsula known as Indian Point, Baraga encountered a small group of Chippewa and Ottawa Indians. This place, known initially as Chaboigan, had been settled since 1720 and at one point had a population of about three hundred people. (This was *not* the present-day city of Cheboygan. Chaboigan was called by a number of names—Sheboygan,

⁴ Robert C. Sager, *The Pageant of Tuscarora* (1975; repr., Indian River, Mich.: Screen Graphics, 2001), 30.

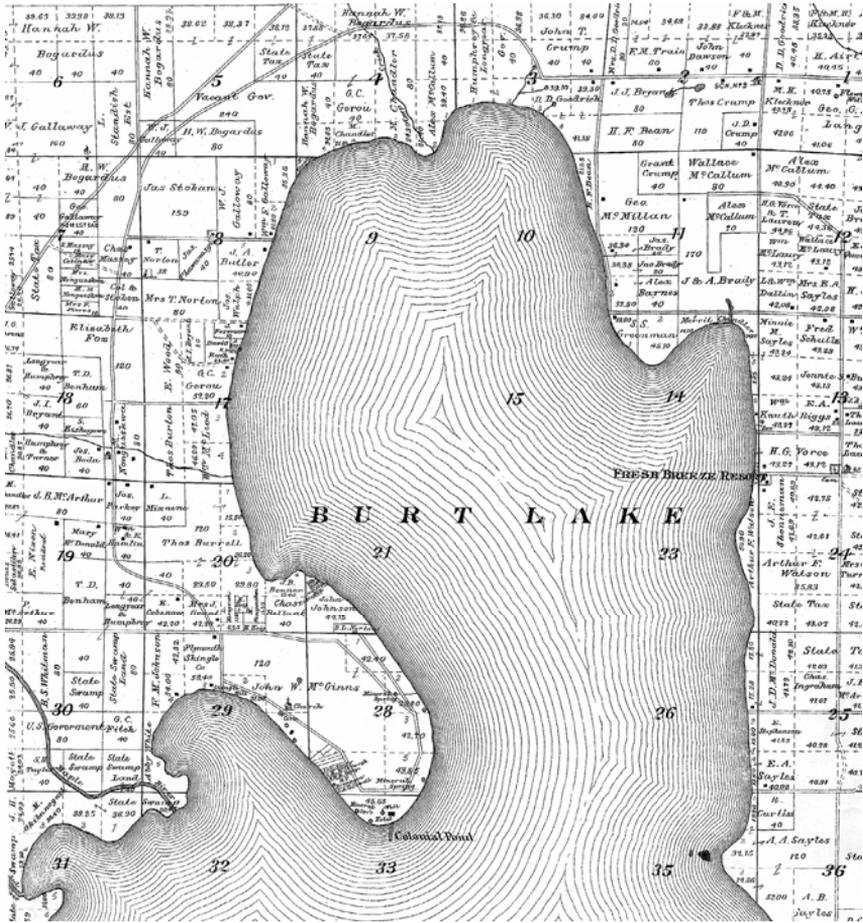


Image from P. A. Myers and J. A. Meyers, *Plat Book of Cheboygan County, Michigan* (Minneapolis: Consolidated Publishing, 1902), 9.

**Plat map of a section of Burt Township in 1902.
The peninsula jutting into Burt Lake is Indian
Point, depicted here as Colonial Point.**

Jaboigan, Pokagon's Village, Indian Point, Halfway Camp, or, most often, Indianville.) Baraga built a simple missionary church at Chaboigan in 1838 to serve the spiritual needs of the local Indian community, whose population at the time numbered about 120.⁵ He also oversaw the construction of a new school for the village. Constantly working to evangelize, Baraga continued to visit Chaboigan through at least 1860.⁶

By that time, treaties had reshaped the community's legal status. The Treaty of Washington in 1836 was the first to deal specifically with the Native-American population in northern Michigan. As partial compensation for the vast amount of territory Native Americans surrendered under this treaty, a series of reservations was established. For residents of the present-day Cheboygan County area, the treaty provided for "one tract of one thousand acres to be located by Chingassanoo,—or the Big Sail, on the Cheboigan [Cheboygan River]," to be held in common for five years. It also allotted an annual payment of \$18,000 to the Indians living between the Grand and Cheboygan rivers and \$3,600 to those living between the Cheboygan and Thunder Bay rivers. This annuity was to be paid in specie every year for twenty years. Additional funds for missions, schools, educational supplies, agricultural tools and implements, and medicinal supplies were also allotted.⁷

This treaty was important to both the Native Americans and the federal government. The fur trade, which had been essential to the Indians' livelihood, was by then declining rapidly. Needing supplies, the Indians were now forced into debt—a debt they had no easy means of repaying. They did, of course, have land, and trading away this land was a way to settle the obligations they had to the white men with whom they traded. In time the land could be sold and the government more than repaid for its contributions to the Indians.⁸ More important, though, was the treaty's stipulation that the Indians must move onto established reservations, where they would be required to learn how to farm and live off a particular plot of land.

⁵ Regis M. Walling and N. Daniel Rupp, eds., trans. Joseph Gregorich and Paul Prud'homme, *The Diary of Bishop Frederic Baraga: First Bishop of Marquette, Michigan* (Detroit: Wayne State University Press, 1990), 29-30; Sager, *Pageant of Tuscarora*, 23, 26.

⁶ Walling and Rupp, eds., *Diary of Bishop Baraga*, 186, 271.

⁷ Charles J. Kappler, ed. and comp., *Indian Affairs: Laws and Treaties* (1904; repr., Washington, D.C.: Government Printing Office, 1972), 2: 451.

⁸ Philip McM. Pittman and George M. Covington, *Don't Blame the Treaties: Native American Rights and the Michigan Indian Treaties* (West Bloomfield, Mich.: Altwerger and Mandel, 1992), 25.

The 1836 treaty stated that the land reserved for the Indians had to be held in common for five years, “and no longer; unless the United States shall grant them permission to remain on said lands for a longer period.”⁹ After the expiration of this period, the land had to be privately held by the Indians. At Burt Lake there was no individual land ownership by Indians until 1852, and relatively little even then. Instead, in order to protect their communal land, the Burt Lake Indians pooled their resources and bought the land they were living on, deeding large parcels to the governor of Michigan “in trust for the Indians of whom Kic-shago-way [of the Cheboygan Band] is chief” in April 1846 and August 1847.¹⁰ The reason behind this move was simple enough. By holding the land together, the Burt Lake (Cheboygan) Indians remained a community, a united group and not individual landowners like the United States government wanted them to become. In this way they were able to preserve their tribal identity and dodge the white man’s demands for individualism.

The Burt Lake Indians’ land held in trust was granted federal patents in June 1848 and April 1850. But county records, while showing that this property patented to the Indians “of whom Kee shago way is chief,” also noted that there was “no record of allotment” for these lands.¹¹ Presumably, this meant that the land was issued collectively to the group but that no individual parcels were allotted out of this land (federal patents can be issued to groups; allotment refers specifically to individuals). Regardless, it is clear that no one questioned who owned Indian Point until the 1890s.

The next treaty to deal specifically with the Burt Lake Indians was the treaty with the Ottawa and Chippewa in 1855. Actually an amalgamation of several treaties, this document sought to establish that the government’s obligations in the 1836 treaty had been fulfilled. An additional goal was to ensure that Michigan’s Native Peoples would be incorporated into white society as the reservation system was phased out in favor of private land ownership. The treaty assured the Indians that

⁹ Kappler, ed. and comp., *Indian Affairs*, 2: 451.

¹⁰ Tract Book, Cheboygan County, private collection; Register of Deeds, Records of the Cheboygan County Treasurer, State Archives of Michigan, Lansing. It should be noted that the chief’s name, Kic-shago-way, was spelled differently in the various legal documents. When quoting sources, I have used the name as it appears in the document.

¹¹ “Land Patent Search,” *Bureau of Land Management, General Land Office Records*, www.glorerecords.blm.gov, accessed April 17, 2007; Register of Deeds, Records of the Cheboygan County Treasurer.

the services promised them in the earlier treaty would be extended as they continued their assimilation.

For the Burt Lake Band, another government-mandated “reservation” was spelled out in the Treaty of 1855. It stated: “For the Cheboygan [Burt Lake] band, townships 35 and 36 north, range 3 west.”¹² These two townships consisted entirely of land encompassing Burt Lake, excepting from the “reservation” a few small parcels that had already been bought up by early lumbermen or land speculators and the section already placed in trust by the Burt Lake Indians. What this meant was that the Indians living at Chaboigan and other places along the lake would remain on Indian-controlled land for at least another fifteen years. The 1855 treaty mandated that each Indian living on reserved land make a selection for himself and his family within five years but that this land could not be sold for another ten years.¹³ (The land held in trust, having already been patented, was not subject to reallocation and so remained in trust.) The federal government did not, however, issue patents granting private ownership to the Indians living on these lands until 1867, with a majority of the patents issued in 1872.¹⁴ The federal officials involved may simply have been slow to act, but the delay suggests that the Burt Lake Indians were reluctant to select private sections of land, waited until the last minute to do so, and hence were not granted regular patents until more than fifteen years after the 1855 treaty had been ratified.

In accordance with the treaties of 1836 and 1855, the Burt Lake Indians had made their land selections from townships 35 and 36 north, range 3 west. Thus, by the early 1870s land patents had been issued for those Indians who had made their selections as required by the treaty. At that point there was no more reservation or commonly held land except for the land on Indian Point, which remained “in trust” for the band. Many of the Burt Lake Indians were now private landowners, though it is likely some chose to live on the trust land regardless of where their particular plot was located. They were no longer dependent on the government, and the United States was not responsible for distributing goods or services to them. They had also been granted full citizenship some time before this, which meant that they were responsible for paying property taxes.¹⁵

¹² Kappler, ed. and comp., *Indian Affairs*, 2: 726.

¹³ *Ibid.*, 727.

¹⁴ Tract Book, Cheboygan County.

¹⁵ Parkey to Olson, June 23, 1969.

In the period from the 1836 treaty through the mid-1870s, Chaboigan (which came to be known as Indianville) continued to be a relatively well-organized community. It had a church and a school, and the land on the point was suitable for farming. There were also plenty of maple trees for making maple syrup in the spring. Additionally, the community's enviable location afforded it easy transport by water throughout northern Michigan.

Unfortunately, matters had become more complicated than the Indians living on the point would have liked. In the late 1850s and 1860s, the area surrounding Burt Lake became increasingly attractive to lumber speculators. The village of Cheboygan, at the mouth of the Cheboygan River, and its neighbor Duncan City, were becoming booming lumbering communities. As more and more would-be lumber barons came to the area, they coveted any good timberland they could find. Indian Point was but one of many places in the area where the soil had provided for good forest growth. This would, in time, become a serious problem for the Indians.

Despite the trust arrangement, the collectively held land on Indian Point was not exempt from taxation, nor was it a specifically defined Indian reservation. It was liable to taxation just like any other piece of property. The schoolteacher at Indianville and the first supervisor of Burt Township, Lorin P. Riggs, had told the Indians that they had to pay taxes on their land, and they did so for a number of years. According to Chief John Parkey, this was the case until a new schoolteacher, a man named Cross, took Riggs's place and told the Indians that they did not have to pay taxes because they lived on a reservation. What happened next was predictable: The Indians stopped paying taxes, and the land on which Indianville was located reverted to the state for unpaid taxes in the early 1890s.¹⁶

Because of Indian Point's prime location, it would not long remain in the state's possession. John W. McGinn of Cheboygan had his eye on the property as soon as it went delinquent for back taxes. By February 1894, McGinn inquired about the status of this land, contacting the county treasurer and the auditor general. Just over a year later, in March 1895, McGinn bought the tax titles to large parcels of Indian Point and became the new owner of what had been the Native Americans' home, including Indianville. Subsequent purchases

¹⁶ *Ibid.* It is important to note that the Indians in this area were not charged a tax rate that was different from the one charged other residents in the area.

in May 1897 and February 1898 added to his holdings in the area.¹⁷ He wanted the Indians off his land for a number of reasons. First, McGinn planned on harvesting this area's good-quality timber. As the 1890s drew to a close northern Michigan's white-pine supply was nearly exhausted. Thus Indian Point's timber was quite valuable. A second reason was that located on the tip of Indian Point was a hotel owned by Samuel H. Price, who disliked the Native Americans' presence on the peninsula. Even though many of his guests and other tourists making their way along northern Michigan's "Inland Route" enjoyed stopping and purchasing hand-crafted goods from the natives, Price wanted the Indians gone. With his ally McGinn now the legal owner of the property, he had a way to remove them.

Some have argued that McGinn, in his lust for property, was ruthless and coldhearted. While he obviously desired to take possession of Indian Point, he was not completely evil. In December 1898 a writ of assistance had been granted by Circuit Court Judge Oscar Adams, giving McGinn the legal means to evict the Indians. But what is perhaps more significant is the fact that this writ was not served right away. Instead, McGinn waited nearly a year before he took that step and almost two years before he evicted the Indians. In the interim, McGinn was quite generous, as far as the *Cheboygan Democrat* was concerned: "He has tried to make some arrangement with the Indians, offering to give up his right if refunded the money paid without interest. They were obstinate, probably on account of advice to the effect that they could not be put off the land. Mr. McGinn delayed having the writ served from December, with the hope of making some arrangement. As a last resort he offered each one holding land a lease of his house and an acre of ground, but they would not consider it, so it was decided to serve the writ."¹⁸ McGinn also gave the Indians time to get their cabins and possessions off the land, but of the twenty-one families living in Indianville, only two did so, including John Parkey's father, Chief Joseph Parkey, and his family.¹⁹

The writ was not actually served until October 1899. Once this happened, McGinn had the legal right to evict those people living on his land—in this case the entire population of Indianville. According to the *Democrat*, many of the Indians seemed completely uninterested and

¹⁷ Financial Records, Cheboygan County, 3: 130, 144; Records of Cheboygan County, Tax History [E], both in the State Archives of Michigan.

¹⁸ *Cheboygan Democrat*, October 7, 1899.

¹⁹ The other resident to remove his cabin was Bill Hamlin. Ellis Olson, "Fred R. Ming," *Chronicles: Historical Society of Cheboygan County*, Summer 2005.

ignorant of what the writ meant. Apparently, they “showed no resentment and even smiled” as the writ was served. A meeting followed between McGinn, Sheriff Fredrick R. Ming, two other men, a reporter, and some of the Indianville inhabitants, during which the Indians asked for more time, arguing that they could not move so late in the year. McGinn maintained that they had already had plenty of time to relocate, but nevertheless he agreed to their request and gave them until the following spring to move. One vacant house was repossessed immediately to provide a place for some of McGinn’s men to live while they began making some general improvements to the land.²⁰ A year would pass, though, before McGinn took any further action. But on October 15, 1900, McGinn, the sheriff, and a posse of deputies came to enforce the law. Despite being unethical, the burning of the village and the eviction of its residents were legal acts.

In the past, other historians have not held this view. James Clifton, George Cornell, and James McClurken have called this episode an “obvious illegal act,” based on “alleged non-payment” of taxes, but this is simply not accurate.²¹ The Burt Lake Indians stopped paying their taxes—Chief Parkey acknowledged this. Consequently, they lost the land, and John McGinn bought it. Then the Indians refused to leave, although McGinn gave them advance warning; he even gave them an opportunity to get their land back. They resisted McGinn to the end (except for the two families who left), and so he asked for the assistance of Sheriff Ming to enforce the writ.²² With the ruling of Judge Adams in hand, the action to evict the Indians was, strictly speaking, within the law. Even Governor Hazen S. Pingree, in all his appeals to support the band, never said that the eviction was illegal.

Even if this action was within the letter of the law, however, it affronted the laws of human decency. Statewide condemnation of what came to be known as the “burnout” was soon forthcoming. Governor Pingree believed that some sort of reparations should be provided, and he

²⁰ An additional seasonal shanty was vacated as well, pieces of which were used to make repairs to the house. *Cheboygan Democrat*, October 7, 1899.

²¹ James A. Clifton, George Cornell, and James M. McClurken, *People of the Three Fires: The Ottawa, Potawatomi, and Ojibway of Michigan* (Grand Rapids, Mich.: Grand Rapids Inter-Tribal Council, 1986), 100.

²² Sheriff Fred Ming was unaffected politically by this controversial event. Locally he had functioned as the chief of police, fire chief, supervisor of the Fourth Ward, county sheriff, and president of the school board. He went on to serve twelve years in Michigan’s House of Representatives and four in the State Senate. To this day, he is the only legislator to have held the position of Speaker of the House in the former body and President Pro Tem in the latter.

advocated this remedy before the Michigan House of Representatives. Regarding the 1846 and 1847 trust arrangements, Pingree conceded, "It is true that the Governor was not acting in his official capacity for the State when these lands were conveyed to him in trust, and legally the position of the State is the same as it would be if the patents had run to any other person than the Governor." But, Pingree continued, "I think you will agree with me that there is at least a moral obligation upon the part of the State to restore the land to this band of Indians."²³

Pingree also advocated monetary compensation for the Indians who had lost property and possessions. The federal government, he noted, had refused to act, saying, "It is not within the power of this Department [of the Interior] to afford any relief."²⁴ On December 18, 1900, Pingree introduced "a bill for the relief of Chippewa Indians, of which Kee-she-go-way is chief, by vesting in the Governor, as trustee for their benefit, lands of which they have been divested by the tax laws of this State; to restore the conditions which existed prior thereto, and to make an appropriation thereto."²⁵ The bill apparently died in committee, though, and Governor Pingree's term of office expired at the end of that year. Subsequent efforts to provide relief to the Indians in 1903 and 1915 shared a similar fate.²⁶

The Burt Lake Band has struggled since then to be acknowledged as a distinct tribe. Attempts at federal recognition as a separate band have been initiated repeatedly from the 1930s to the present, all with discouraging results. The most recent attempt at federal recognition was denied in September 2006, despite intense lobbying and evidence the band believes proves its status. Meanwhile, the members have vowed to continue the fight.²⁷

Whatever the ultimate fate of the Burt Lake Band, it is painfully evident that it has had a long struggle. Although Native Americans had lived on Indian Point on Burt Lake for centuries, the arrival of Europeans ultimately led to their eviction. Through treaties, perplexing stipulations, bad advice, and confusing laws, by the end of 1900 their collectively held lands were gone. It was the end of the road (and an era), and it

²³ *Journal of the Senate of the State of Michigan, Second Extra Session of 1900* (Lansing: n.p., December 18, 1900), 39.

²⁴ *Ibid.*, 39-40.

²⁵ *Public Acts of the Legislature of the State of Michigan, Passed at the Regular Session* (Lansing: Robert Smith, 1903), 446.

²⁶ *Ibid.*; undated *Detroit News* article in Historical Society of Cheboygan County, Collection 2004-2005.

²⁷ *Cheboygan Daily Tribune*, September 22, 2006.

culminated in the burning of the band's humble village and the struggle for an official identity that has persisted to the present day.

With the passage of time, many pleasant homes and subdivisions have been built on Indian Point. Ironically, much of the land there was never lumbered at all. Some foresighted residents on the peninsula placed large portions in the hands of a nature conservancy so that these tracts would remain untouched. Now anyone can go and enjoy the forests that were at the center of such a bitter struggle. The land Indianville occupied is now privately owned, lying on either side of a modern, paved road. The little cemetery of the old church and small clearings are the only indication of what once stood here. What has remained, though, is the painful story of the Burt Lake Indians.

Matthew J. Friday is a graduate student at Central Michigan University. He is the author of *Among the Sturdy Pioneers: The Birth of the Cheboygan Area as a Lumbering Community, 1778-1935* (Victoria, B.C.: Trafford Publishing, 2006).