

Faith in Paper is about the reinstitution of Indian treaty rights in the upper Great Lakes region during the last quarter of the twentieth century. This book focuses on the few treaties and legal cases that together have awakened a new day in Native American sovereignty and established the place of Indian tribes on the modern political landscape. Providing an account of these has been a daunting task. The reader should note that scores of other treaties also pertain to the same tribes under discussion here, but these treaties have not been litigated, at least by modern courts. The many treaties not described here, while perhaps of less importance in modern law, are nonetheless significant in cultural and historical perspective.

Since its inception, this book has been buffeted by difficult organizational eddies and cross-currents. First, it has been difficult to find a satisfactory means to discuss a topic that originates in the esoterica of three separate academic and professional disciplines—namely, anthropology, history, and the law. Fortunately, the two broad categories of treaty litigation and treaty history offer a means of organization that, to some degree, bridges geographical, cultural, historical, and judicial boundaries. For example, treaty rights claims have been brought under the same treaties by different modern tribes that are the political successors in interest to those Indian bands that historically negotiated the treaties. Often these cases have been heard in the federal courts of different states and separate judicial districts. To simplify the organization of this discussion, I have grouped the cases into two large categories: those dealing with hunting, fishing, and gathering rights and those arising from reservation issues, such as boundary claims, tribal jurisdiction, and claims related to the benefits to Indian people who live and work within Indian reservations.

This organization, though providing a means to factor out problems related to geography and the inherent differences between modern tribes and judicial districts, involves problems as well. For example, knowledge of the basic historical background and the political objectives of federal Indian policy in creating Indian reservations is important for understanding the circumstances under which the different reservation treaties were negotiated. Since this is so, where

Preface

historical particulars and legal theory related to specific treaty cases are being explained, the fundamentals of contemporary reservation policy become crucial to understanding each case. Since the various cases of the reservation section all evolve from the same policy, a certain amount of repetition is necessary so that each treaty and legal case can stand alone as a coherent statement. Since *Faith in Paper* will presumably be used by some as a reference text, I found it necessary to include somewhat more repetition than is usually found in a straightforward narrative. I hope the reader will be understanding in this regard.

Another organizational challenge involves the anticipated readership for this book and its parts. I am hopeful that its contents will be of interest to tribal members and to scholars and students of history, anthropology, and the law. I also hope this book will be of interest to members of the lay public, a crucial audience in bringing a new understanding to the role of modern Indian tribes in the affairs of the larger Great Lakes community. These separate audiences do not share the same vocabulary, means of conducting research, or theoretical perspectives. I have not tried to bridge these separate chasms but, instead, have made an effort to create a discussion that will be intelligible, useful, and accessible to the separate readerships by providing the legal, historical, and cultural perspectives necessary to understand and interpret Indian treaties.

Several different strategies have been adopted to make *Faith in Paper* available to readers and researchers. First, it will be available as a printed edition. Second, the material will be accessible electronically in a number of formats.

This book is about the struggle of Indian people to resurrect and to give meaning to these agreements, to explain their contexts, and to give

them reality in the modern world. To native people, treaties are not ancient history but a living part of their cultural heritage. To succeed, the tribes had to confront many treasured historical myths in the mainstream as well as to convince the courts of the justice of their cause.

Part 1 of this book presents information on the development of the Indian treaties in historic time and their social and legal context. Treaty making, which involved direct face-to-face negotiation of people of totally distinct cultures, also required the negotiation of mutually satisfactory mechanisms for treaty making itself. Also considered in this part is the process that provided treaties cultural legitimacy in the context of both cultures.

Part 2 deals with the specific treaties that have been litigated for the right of Indian people to hunt, fish, and gather in the upper Great Lakes region. In each case, I provide an ethno-historical account of the historical circumstances of the negotiation of the treaty or treaties in contention. Each historical narrative is followed by a commentary by one of the lawyers who organized and argued the case for the tribe or tribes. Here they explain the circumstances that led to litigation, the legal con-

tentions of the tribe as well as the opposing parties, the legal cases relied on by the tribe, the track of the case through the court system, and, finally, the decision of the court. While the historical reports or legal views of the opposing parties are not provided, this account is oriented toward the Indian perspective and does not pretend to be totally balanced. The reader might keep in mind, however, that while the Indians' side did not win all the cases described here, it did prevail in most. In those latter cases, the court accepted the accounts presented as factual and relied on them.

Part 3, which is in the same format as part 2, deals with reservation issues. Finally, part 4 deals with the impact of treaty litigation on the modern Indian and non-Indian communities of the Great Lakes region.

I hope that each reader will find the story of the reinstitution of treaty rights to the upper Great Lakes region interesting and will come to understand the significance of the ancient treaty promises and what they have brought to the region and to its native people.

Charles E. Cleland
Norwood, Michigan