



Indian Claims Insight

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Indian Claims Insight offers a unique view into the history of U.S. Indian claims from 1789-2020. This exclusive collection of Indian claims contains materials from the Indian Claims Commission, the Court of Claims and successor courts, the Supreme Court of the U.S., the U.S. Congress, and executive branch agencies, including historic content previously available only in microfiche or archival source format.

Researchers can observe changes in the Indian claims process throughout U.S. history to the present and understand the determination of tribes in bringing action against the U.S. Government for inequities in the treaty process. Native American oral testimonies, as well as evidentiary exhibits documenting tribal history and culture, make this a must-have resource for researchers interested in specific Indian nations and tribes. The oral testimonies encompass many topics such as traditional housing and food, ceremonial practices, family memories of historic events such as the Battle of Fort Ridgely and the Long Walk of the Navajo People, farming, hunting, fishing, and grazing, and the names of specific places where members of various tribes lived at different times.

Indian Claims Insight supports research in:

- History
- Native American Studies
- Land Use
- Peace Studies
- Law and more

Trace the passages of Native Americans as U.S. government removal policies pushed them from their ancestral lands, using Tribal and geographic indexing, as well as maps. The geographic indexing makes it possible to narrow searches to records related to specific states and territories for locations of Indian nations/tribes at various points in time and to trace how westward expansion of white settlers forced Native Americans from divergent cultures to coexist in increasingly narrowed spaces. Legal researchers, in particular, will appreciate the user-friendly docket histories, the ability to search by docket number, and the ability to quickly search the full text of all content related to each claim. Indian Claims Insight includes not only court documents, but also cited treaties, related congressional publications, and maps to provide specifics of each case without requiring the user to leave the docket history page.



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The Constitution of the U.S. authorizes the President, with the advice and consent of the Senate, to make treaties. The removal of Indian Nations from American lands desired by white settlers was grounded in the treaty-making process. The Constitution expressly prohibits the States from entering into treaties or alliances and makes no distinction between treaty making involving foreign nations and treaty-making with Native Americans, although it does make a distinction between foreign nations and Indian tribes in the language empowering Congress to regulate commerce. The earliest treaties refer to “Indian Nations” or “Indian tribes.”

Of all the treaties signed, most involved Native American lands, Indian removal or resettlement, or clarification of boundaries between white settlements and Indian lands.

Even though the treaty-making process between the U.S. Government and the Indian Nations/Tribes was overwhelmingly skewed to favor U.S. territorial expansion, Indian removal, and white settlement of lands previously occupied by Native Americans, it is the grounding of the territorial expansion in the treaty-making process that provided the only hope for Native Americans to seek redress.

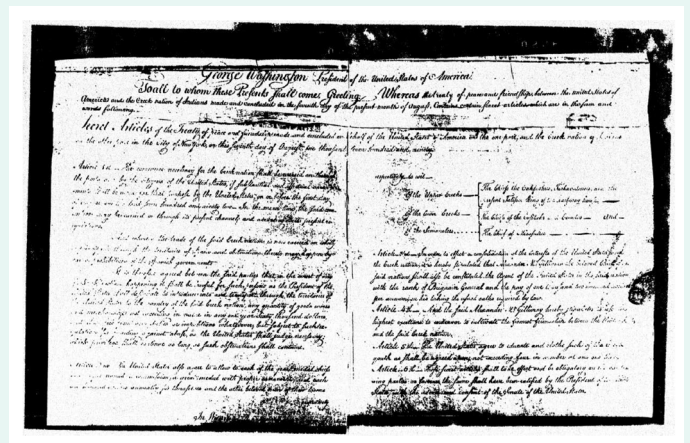
The following timeline highlights major events impacting the history of Indian claims 1789-present.

Treaty Making Period 1789-1871

On Dec. 2, 1817 in his annual address to Congress, President James Monroe provided examples of Government actions involving the purchase of Indian lands and the resettlement of the Native Americans. He declared that “the hunter state can only exist in the vast uncultivated desert. It yields to the more dense and compact form and greater force of civilized population; and, of right, it ought to yield, for the earth was given to mankind to support the greatest number of which it is capable, and no tribe or people have a right to withhold from the wants of others more than is necessary for their own support and comfort.”

Source:

Message from the President of the United States to both Houses of Congress at the commencement of the first session of the Fifteenth Congress, Dec. 02, 1817



Treaty Signed by George Washington

Secret articles of the Treaty of Peace and Friendship between the U.S. and the Creek Nation of Indians, concluded Aug. 7, and ratified Aug. 13, 1790

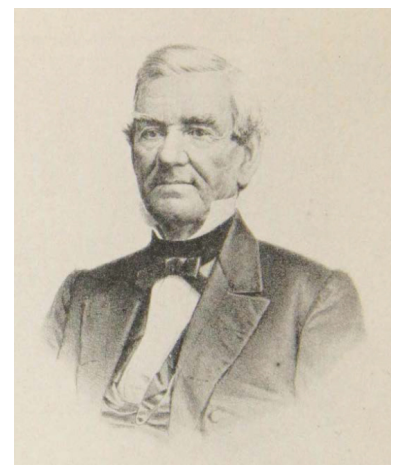
In the 1830s, during the administration of Andrew Jackson, the removal and resettlement of Native Americans accelerated. The Indian Removal Act of 1830, signed by President Jackson on May 28, 1830, provided the President with the authority to negotiate the resettlement of Native Americans to lands west of the Mississippi River. When the State of Georgia passed a law making it illegal for Cherokees to remain in the State without a license, Cherokee Chief John Ross sought intervention from President Jackson and the Supreme Court to prevent the State of Georgia from expelling his people. In *Cherokee Nation v. Georgia* (1831), the court stated that the Cherokee motion could not be ruled upon, as it was brought on the grounds that the Federal Government had jurisdiction over controversies between States and foreign nations. But the following year, the Supreme Court ruled in *Worcester v. Georgia* (1832) that the Georgia law was unconstitutional because the Federal Government had sole jurisdiction in dealing with Indian Nations.

President Jackson declined to pursue enforcement of the *Worcester v. Georgia* ruling, and the removal of the Cherokees began in 1838. Nonetheless, *Worcester v. Georgia* would provide a foundation for future Indian claims.

Sources:

Cherokee Nation v. Georgia, 30 U.S. 5 Pet. 1 1 (1831)

Worcester v. Georgia, 31 U.S. 515 (1832)



Chief John Ross

Indians of Southeastern United States, American Ethnology Bureau Bulletin 137, May 01, 1942

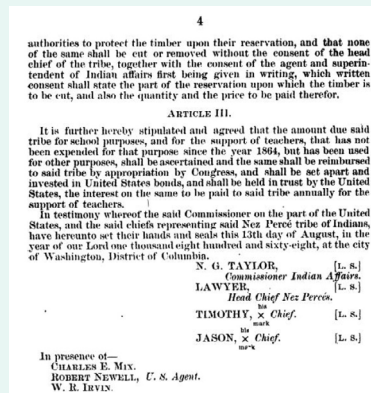
On February 4, 1855, the Court of Claims was established to hear and make determinations regarding claims brought against the United States. A number of Indian claims petitions were filed, but none had been decided by Mar. 3, 1863 when Congress amended the Court of Claims enabling act to specifically exclude Native Americans from bringing claims.

In 1868 the last treaty was concluded, although congressional and executive agreements continued to be made until 1871 when the treaty-making process was officially ended.

Sources:

An Act to establish a Court for the Investigation of Claims against the United States (10 Stat. 612 chapter 122), Feb. 4, 1855

An Act to amend "An Act to establish a Court for the Investigation of Claims against the United States," approved February twenty-fourth, eighteen hundred and fifty-five (12 Stat. 765 chapter 92), Mar. 3, 1863



The Last Treaty

Treaty with the Nez Perce Indians.

Message of the President, January 19, 1869

Indian Claims and Citizenship 1879-1946

An 1879 landmark case and a related 1881 congressional investigation both proved important to the advancement of Indian claims. Standing Bear, a Ponca Chief, was arrested by General George Crook for having left the lands where he had been relocated and returned home. He sued for a writ of habeas corpus in the U.S. District Court, and on May 12, 1879 Judge Elmer Dundy ruled in *Standing Bear v. Crook* that "an Indian is a person within the meaning of the laws of the United States, and has, therefore, the right to sue out a writ of habeas corpus in a Federal court, or before a Federal judge." Dundy held that no one could be relocated by force to Indian Territory, and Standing Bear was released.

In March of 1881, a special act of Congress provided the Court of Claims with authority to take jurisdiction and try all questions arising out of treaty stipulations with the Choctaw Nation, and to render judgment. From 1881 until the establishment of the Indian Claims Commission Native Americans were permitted to access the Court of Claims, but only after Congress passed a specific law authorizing access on a case-by-case basis.

Sources:

United States ex rel. Standing Bear v. Crook (1879) excerpt from Red Man 120.16-3.22, May-June, 1916

Message from the President of the United States, transmitting a report of the commission appointed December 18, 1880, to ascertain the fact in regard to the removal of the Ponca Indians, Feb. 01, 1881



Ponca Chief Standing Bear

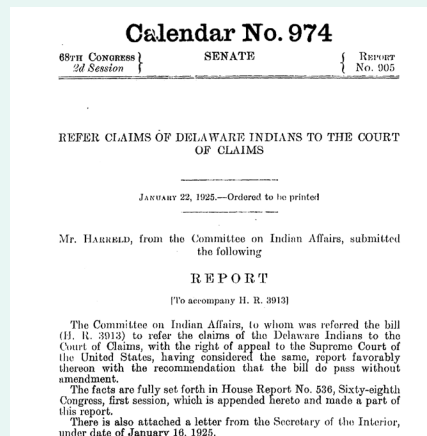
The Ponca Tribe, American Ethnology Bureau bulletin 195, December 31, 1963

Following World War I, the contribution of Native Americans who had volunteered for military service during the war even though they were not subject to the draft undoubtedly did much to sway public opinion in their favor, and in 1924 Indians were granted U.S. citizenship.

Despite the change in public attitudes towards the Native Americans, the increase in the number of claims filed as Indian hopes increased, and the greater willingness of Congress to allow claims to be brought, the process continued to be slow, few claims resulted in awards, and the need for an improved system slowly began to gain favor.

Source:

An Act to authorize the Secretary of the Interior to issue certificates of citizenship of Indians (43 Stat. 253, Chap. 233; P.L. 68-175), June 2, 1924



Refer Claims of Delaware Indians to the Court of Claims

Select Committee on Indian Affairs. Senate, January 22, 1925

1946-1978 Indian Claims Commission

The enabling act which established the Indian Claims Commission removed all impediments to Native Americans seeking redress through the Court of Claims, but it also established the Indian Claims Commission which was intended to resolve the backlog of Indian claims within 10 years and then terminate. The Commission was given jurisdiction over moral claims to prevent a claim from being denied on a legal technicality. Under this act, any identifiable group of Indian claimants residing in the U.S. or Alaska were entitled to sue the government for specified types of claims, including claims arising under the Constitution, law, treaties of the U.S. and Executive orders of the President. The Commission was reauthorized through 1978, at which time the remaining open dockets were transferred over to the Court of Claims.

The ICC final report emphasizes that the Commission was a court, complete with an appellate review, and that it was unique among courts in its jurisdiction over moral claims. But the report concluded that there is no easy solution to the problem of Indian claims, as the very presence of a tribal society within the borders of a highly individualistic society is a reminder that we took “away the lands where we found them, from which they were then making their livelihood.” The final report suggests that “it is time to appreciate that the triumphs of the frontier period were mitigated by our sordid dealings with the Indians” and offers hope that the future might offer remedies, in addition to the sums of money awarded by the Commission, to the unresolved problems between the Government and the Native Americans.

Sources:

An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes (60 Stat. 1049 Chap. 959; P.L. 79-726), Aug. 13, 1946

An Act To authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes (90 Stat. 1990, P.L. 94-465), Oct. 8, 1976, including provisions to provide for the “dissolution of the Commission and disposition of pending claims”

An Act To authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes (91 Stat. 273, P.L. 95-69), July 20, 1977

U.S. Indian Claims Commission, Final report, April 15, 1980

1978 to Present

When the Indian Claims Commission ended in September 1978, the dockets that remained unsettled were transferred to the U.S. Court of Claims. In this Court (followed by the U.S. Claims Court in 1982, which would become the U.S. Court of Federal Claims in 1992) Native American tribes continue to pursue claims based on U.S. government treaty obligations, and through the Courts’ decisions, the development and settlement of these claims may be followed up through the present day.

Source:

Certificate of Settlement [for U.S. Court of Claims dkt. 353, Navajo Tribe v. United States], June 21, 1982

Indian Claims Insight materials include:

- Treaties and claims-related statutes
- Indian Claims Commission 1948-1978 (note that more than 100 dockets were still pending when ICC disbanded; they were transferred to the U.S. Court of Claims and the last case was resolved in 2006). Includes briefs, docket books, decisions, expert testimony, and oral transcripts.
- Court of Claims 1855-1948, U.S. Court of Claims 1979-1982, U.S. Court of Federal Claims 1983-present.
- Important Supreme Court decisions, including all decisions involving Indians from 2005-forward.
- Treaties, Statutes, and Congressional publications directly related to Indian claims, including congressional publications indexed by docket numbers.
- Maps, including ones never before available in microfiche or online formats.

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