

Native American Rights Fund

The National Indian Law Library

ANNOUNCEMENTS

Volume 1, No. 4

September 1972

California Indians—Double Genocide

Ignorance makes of a man
a fearful animal whose
response to alien eyes, skin
color, dress, and custom
is hostile, whose single
impulse is to stamp out,
to obliterate from sight
and consciousness a world
view that contravenes his own.

*Almost Ancestors —
The First Californians*

even a discriminatory pyramidal
vision for Indians. The settlers called
the Indians "Diggers," and seeing them
as scarcely human began to make
slaves of them, to herd them like
cattle to undesirable lands to let them
die, and most of all to simply extermi-

nate them. Being an Indian-killer was
considered by many settlers to be a
honorable profession.

The settler-conquerors are often re-
membered as brave adventurers, le-
galized as ignorant racists. Their ac-
tions were not labeled as genocide
until after the Second World War,
when the act of attempting to wipe
out another culture finally bore on the
collective conscience. The last sur-
viving Indians are left with an un-
imaginable sense of loneliness. Ide-
ntity can now be found only in their own
person; their people, language, and
culture are gone.

The Lost Treaties

After the Treaty of Guadalupe
Hidalgo, the U.S. Government sent
three commissioners to California
to negotiate with the Indians for the
land. They started at the top of the

state and when they finished they

had 18 treaties. In them, the

Indians had ceded 75 million acres

to the United States, keeping

only 8.5 million for themselves.

The Indians were never told

that the treaties had to be

ratified by the Senate. They

also did not know that

the California legislature

and governor argued

vigorously that the

treaties should not

be ratified, but

that rather than

Indians should

be removed beyond

the borders of

the state. The

In 1848, when the Treaty of Guadalupe-Hidalgo was signed at the conclusion of the Mexican War and California became a part of the United States, about 200,000 Indians occupied 90 per cent of the new state. By the turn of the century less than 20,000 had survived.

The Spaniards began the initial act of obliteration of the native culture with their missions and pyramidal society (Indians as the peon base and the conquerors as the aristocracy) as far back as 1769. Spanish missions were filled with Indians rounded up without reference to tribe, tongue or personal willingness. What the Spaniards did by this transposition was decimate the populations of whole tribes—they learned too late that Indians who were uprooted, enslaved and stripped of their cultural identity, chose death to life.

The Gold Rush brought an enormous influx of Anglo-Saxons who lacked



stop what they considered to be an illegal and non-existent acceptance of their portion of the claim, the settlement was ratified.

Congress appropriated the \$29 million and put it in trust. In 1968 a law was passed specifying how the monies were to be distributed, and since that time the Bureau of Indian Affairs has been in the process of determining who should be eligible to participate in the settlement.

California Indians For A Fair Settlement

Sometime in the next few months, the Bureau of Indian Affairs will distribute to the California Indians the proceeds of the California claims judgment. It is estimated that each California Indian will receive between \$600 and \$800, to be considered a final compensation for the seizure of the 75 million acres of land. Many California Indians feel that their acceptance of the award (which was the result of a compromise of the claim) was procured without their being aware of all the facts and implications. Many resent the roles of some of the claims attorneys who, the Indians allege, spent too much time arguing among themselves, and who seemed intent on a settlement of the claim.

Thus, many California Indians are reluctant to accept this payment. In addition to feeling that the award is inadequate payment for land itself, many people feel that they should be compensated for the genocide committed by the State of California and its citizens. In addition, many people would prefer to receive trust lands rather than money, for they do not wish to surrender their claims to the land.

On September 9, 1972, a group calling themselves "California Indians for a Fair Settlement" will be meeting in Sacramento to assess various alternatives to the settlement of this claim. Many are hopeful of going back to court to try to reopen the claims case. In addition to payment for the deaths, enslavement, and suffering of California Indians when the land was taken, they want a land base for those remaining survivors. Because they know the government will argue that the case cannot be reopened because the Indians have been paid for the

land, they hope to join as a group and deposit their claims payments in a trust account either with the government or in a bank.

There are several reasons why Indians have been joining together in this effort. Some feel that they have no right to sell land; that it belongs to everyone. Others have joined because they know that California is worth much more than 47 cents an acre. Still others say that this payment is far too small considering that there is a risk that California Indians will lose all of their Indian benefits and because they believe the government must be made to pay for the sufferings of their ancestors.

For further information about **California Indians for a Fair Settlement** write to:

Joseph Carrillo
915 Capitol Mall, Room 309
Sacramento, California 95814

Public Law 280

Law is a continuously evolving phenomenon, intrinsically social in nature. These characteristics it shares with the consciousness of a culture.

In 1953, as part of its general policy to terminate federal services to Indian tribes, Congress passed Public Law 280 which purported to give specific states, including California, civil and criminal jurisdiction over Indian tribes within their boundaries. The intended purpose of P.L. 280 was to facilitate the integration of Indians into the local and state structures which surrounded them.

Since the implementation of P.L. 280 in California 19 years ago, reservation Indians have had numerous difficulties with the "benefit" of being subject to the jurisdiction of local law enforcement agencies. Discrimination, brutality, and harassment have been all too common when county and state officers have exercised jurisdiction upon Indian reservations. In numerous instances, police and sheriffs fail to respond in time of need, but have been all too willing and available to arrest Indian people for drunkenness, (actual or suspected), as well as for other petty infractions.

As repugnant as these excesses have

been, the extension of the California penal code to reservation lands has not until recently been a significant threat to the remnants of Indian culture and life style. However, recently local governments have begun to assert police power jurisdiction to a extent and in a manner which, if upheld by the federal courts, will assure the destruction of tribal sovereignty.

Unlike many western states, California has very few areas which are truly rural, except in the extreme northern part of the state. Particularly in southern California, reservations which may have been geographically isolated when established, are now being surrounded by urban or concentrated suburban development. As government attempts to regulate new land developments in previously undeveloped areas, attention is being directed to nearby Indian reservations which, until now, have been largely ignored. There are several counties which have begun to aggressively enforce local building codes and zoning ordinances on California reservations. Insofar as building codes require expensive permits as well as needlessly expensive and culturally biased building specifications and materials, the enforcement of such codes can easily render the construction of a dwelling or other improvements beyond the financial means of many Indians.

The application of state and local ordinances also threatens tribal plans for the economic development of reservation resources. The enforcement of zoning laws can severely limit the ability of tribal governments to determine how reservation lands are to be used. In cases where Indian lands adjoin non-Indian recreational or other property, the political influence of wealthy non-Indian landowners may well result in the use of Indian lands being restricted so as to be compatible with the maximization of the profits of the white landowners.

Basically the zoning of Indian lands subjects and subordinates the Indians whose occupation of particular reservations preceded the Anglo occupation of surrounding lands, to the desires and manipulation of non-Indian land owners and speculators. The result is further economic and cultural disaster for Indian people. At the present time the states are

counties are reading P.L. 280 as a *de facto* termination act, at the very time when Congress and the Executive branches of the government are recognizing the immorality and destructiveness of termination and are for that reason abandoning it.

Termination— "To Wipe Out"

The United States Congress began a more complete effort to terminate federal assistance to California Indians in 1958 with the passage of the Rancheria Act. The Rancheria Act and the other termination programs of the U.S. Government were thought to be reflective of a long range legislative policy of the Congress to help Indians living on or near reservations attain a standard of living comparable to that of other Americans and as a way to integrate them into the mainstream of the dominant society. Part of the motivation was the fact that the Federal Government was seeking to find a way of reducing the expenditures they were making to provide services to Indians and to force states to assume the responsibility with the removal of tax-free status from Indian lands.

California as a wealthy state with a small population of Indians spread out across it seemed ideally suited to the Congress. The fact that the Indians were spread out made them difficult to serve and the high proportion of inter-marriage with whites led large numbers of them away from the reservations in the first place. Further, the reservations were too small to have their own governmental systems. During the 1950's many vocal Indians and Indian organizations felt strongly that the problems Indians were having at that time were due to the paternalistic attitude of the federal government and therefore they saw that in the move to termination, the Indians would be out from under federal control.

The fact that California was also a Public Law 280 state gave more impetus to the Rancheria Act. The Act itself spelled out the end of the trust status of Indian land and called for the automatic termination or sale of all unoccupied rancherias, but provided a mechanism for the population of occupied rancherias to vote on

whether they wished to be terminated and have their land taken out of trust or not. The Act specifically stated land taken out of trust that was currently occupied was to be distributed to those Indians who could "participate."

Many California Indians contend that this Act was a failure. The Act provided that before the government could terminate services to the Indians they would have to provide adequate health facilities, water and sanitation systems which would meet California state standards. Many Indians allege that the federal government used whatever power they had to encourage termination because they wished to be rid of the responsibility. They allege that the BIA, which supposedly had limited funds for the improvements, sought to pit one Indian tribe against another. The BIA apparently told various rancherias that since limited funds were available it was advantageous to terminate as soon as possible in order that the funds available could be expended to provide the promised health facilities, and that if they waited too long to terminate, all the monies would be gone. Other problems which developed for those rancherias and tribes which decided to be terminated included loss of federal health services, special education programs, special housing programs and vocational training.

Individual terminated Indians often lose their lands because they cannot afford to pay the state and local taxes which they are subject to and/or can not repay loans made on their land, or because they are tricked out of land by dishonest non-Indians who take advantage of the Indians' poverty and faith in people. Termination was and is a one way street. For most terminated Californian Indians it was a policy which further decimated their culture and chances of survival.

Because in so many cases rancherias were terminated without any effort having been made to provide decent housing or adequate water and sanitation facilities, quite a number of suits have been filed against the United States Public Health Service. Some of these suits have dragged on for years but others have resulted in bringing attention to the shocking problems raised. California Indian Legal Services, an Office of Economic Oppor-

tunity Legal Services Program, been instrumental in bringing these issues before Congress and the agencies of the federal government. For whatever reason, the Bureau of Indian Affairs has now stated "the understanding that California Indians were ready to manage their own affairs, would by necessity imply that the physical conditions in the community were such that local action on health, sanitation, and housing when made applicable, would not adversely effect the community or the individual. To assume otherwise, the government would be placed in the most embarrassing position of fostering termination and leaving the ranch residents to face possible eviction from their homes by application of local health and safety laws."

As a result of continuous agitation by terminated Indians in California and because of the total rejection of the notion of termination by the Indians across the country, the Board of Indian Affairs consented in 1972 to send a Termination Force which would study problems involving water, sanitation, and housing at or more northern California rancherias which were terminated pursuant to the 1958 Rancheria Act. In February of this year the California Rancheria Task Force made its report. The report, recognizing the obvious, stated that "substandard living conditions involving housing, water and/or waste disposal were found on each of the terminated rancherias." The recommendation of the report was "legislation providing for authorization and funding to correct the deficiencies in the amount of \$5,469,050 should be introduced at the earliest possible date."

In March 1972, the Board of the Inter-Tribal Council of California considered the report of the Termination Force and found it inadequate. As a result of this finding, the Inter-Tribal Council appointed their own Termination Force Study Group which is to report back to the Inter-Tribal Council as soon as possible on the problems of termination. The Council seems to find the original report unacceptable because it does not attempt to deal with the main problem of termination, which is that terminated Indians are no longer entitled to any special consideration by

federal government. It is this question of the legal status of terminated Indians with which the Inter-Tribal Council is concerned.

California Indian Education

The Johnson O'Malley Act of 1934 acknowledged the federal government's responsibility as a guardian to deal with the problems which are unique to Indian education. Implicit in the J.O.M. legislation is a concept that this federal responsibility can best be met by providing the individual states with a financial incentive to undertake education programs designed to benefit Indian children.

California was the first state to contract with the Bureau of Indian Affairs to receive J.O.M. funds. From 1934 until the move for termination in the 1950's cancelled all J.O.M. funding in California, the state received more than \$300,000 a year, which was a percentage of the Johnson O'Malley appropriation approximating the proportion of Indians in California to the national Indian population (12%). It was in 1957, when the B.I.A. adopted an administrative regulation limiting Johnson O'Malley funds to school districts with "large blocks of non-taxable Indian owned property" that California lost its funding. California, of course, has very few large blocks of tax-free land. The reserva-

tions promised in the 18 lost Treaties were never created and those reservations that were created later were widely scattered and very small. It is important to note that today about 6,000 of the 40,000 Native California Indians live on reservations. Approximately 50,000 other Native Americans in California have been relocated to California from other states and they do not live on reservations, but in urban areas. It seems strange that the funds were removed when those intended to be the prime beneficiaries of the Johnson O'Malley Act were Indians "so intermingled with the general population of the state that it was not practical or economical for the Department (BIA) to obtain separate services for the

There is nothing in the language of the legislative history of the Johnson O'Malley Act which has authorized the Bureau of Indian Affairs to determine that the funds are for school districts with large blocks of taxable Indian land and relatively large numbers of Indian children.

The attempt by the Department of Interior and Bureau of Indian Affairs to restrict the distribution of J.O.M. funds on the above basis has prompted a lawsuit by the California Indian Education Association, (C.I.E.A.) against the Secretary of Interior. The case was filed in March 1972 and set for the controversy over the Interior Department regulations purporting to limit permissible J.O.M. beneficiaries. The suit is being handled by California Indian Legal Services and a copy of the complaint in the case is available from the National Indian Law Library, (No. 0013). A hearing on a Motion to Dismiss the defendants is scheduled for early September. The basis for the motion is an alleged lack of standing of C.I.E.A. to bring this suit. Further amplifying the standing issue are members of C.I.E.A. who have filed petitions on their own behalf to intervene as plaintiffs in the suit.

Public education of California Indians has proven to be unsatisfactory intrinsically, and in comparison with Indian education programs in other states. The consensus is that if the Johnson-O'Malley Act of 1934 were reapplied to California, it could be



single most effective measure to improve the quality of education for Indian children in that state.

If it could have been said at one time that the State of California agreed to the withdrawal of J.O.M. funds, that is no longer the case. Both the California legislature and Department of Education wish the BIA to reinstate J.O.M. funding. California Indians never assented to the withdrawal in the first place; and they, too, urge reinstatement.

Barker v. Harvey

Victims of One of the Greatest Legal Errors In Modern History

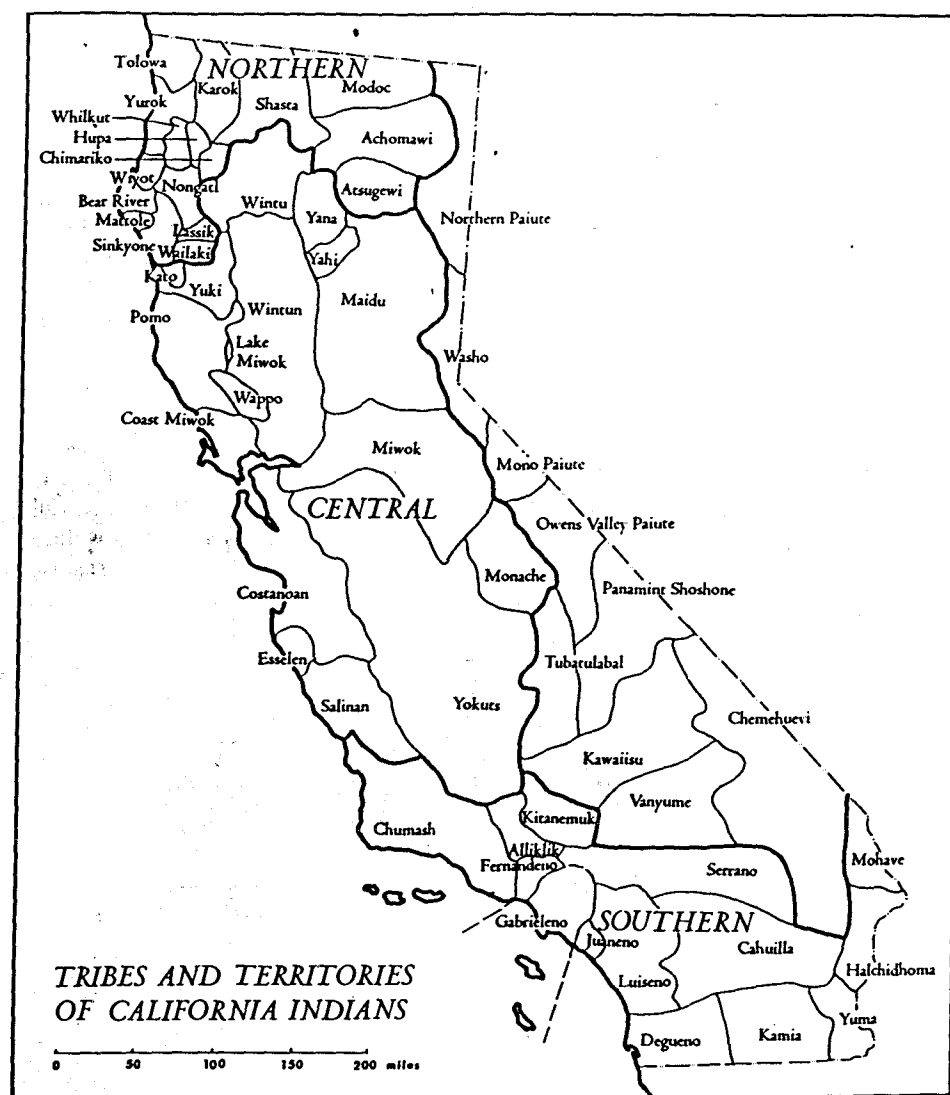
Baron Long, et al. v. U.S.
Amended petition before the
Indian Claims Commission

The Agua Caliente Band and many other Bands of Southern California Indians had used since time immemorial an area now known as Warner's Valley. For generations the Indians regarded the hot springs there as sacred and made pilgrimages to them from far and near.

A gentleman named Harvey claimed title to the Warner Ranch lands pursuant to a patent from the U.S. Government to J. J. Warner on January 16, 1880, and brought action to oust the Indians. Harvey won in the lower courts and the case eventually reached the Supreme Court of the United States on appeal (*Barker V. Harvey*, 181 U.S. 480 45 L. Ed. 963 1901).

The Indians, without an attorney of their own choosing, were forced to rely upon counsel selected by the government for them. The Supreme Court of the United States relied upon the attorney employed by the Bureau of Indian Affairs, and the government attorney, to present the Indians' case, but examination of the brief in the Supreme Court reveals a patent failure to assert the true legal position of the Indians and the case was lost by default.

Even the most superficial research into the Spanish and Mexican law concerning Indian land tenure would have revealed that the Indians held title to established communities and rancherias. Attorneys for the Indians



did not even contend that their clients had title (even though conclusive evidence of the established Indian communities stands close by the Hot Springs to this day in the form of adobe cottages, now modernized to accommodate tourists; a sign over one reads "built by the Indians in 1830"). Instead the attorneys asserted that the Indians had merely a "usufructuary right under Guadalupe Hidalgo", the right of "use and occupancy", and that the Indians and their ancestors had "remained in continuous, open, notorious adverse possession". This was not the law; the Indians owned titles to their communities or rancherias in Warner Valley and the attorneys should have claimed title.

Further the attorneys for the Indians did not cite any of the controlling decisions of the Supreme Court which recognized the effect of Spanish and

Mexican law in preserving and protecting Indian title, and giving effect to the treaty of Guadalupe Hidalgo in perpetuating and protecting those property rights.

The Supreme Court of the United States having been inadequately advised by counsel for the Indians, erroneously held that "If these Indians had any claims founded on the action of the Mexican Government they abandoned them by not presenting them to the commission for consideration..." pursuant to the Act of March 1851 which established the California Land Claims Commission but of which the Indians had never been informed. Still the Act establishing the California Land Claims Commission had no application whatsoever to Indian titles, for these had already been the subject of a special Act of Congress in which the 18

treaties were negotiated. Had the attorneys been diligent in protecting the interests of the Indians, they would have immediately petitioned the Supreme Court of the United States for a rehearing for this and other reasons, but no such petition was ever filed.

Continuing Genocide

"There is not much that is more important for human beings than their relations with each other, and it is these which laws are designed to express."

Owen Barfield

The genocide of the California Indian people and the theft of their land cannot be undone. The decimation that occurred in the 19th century might be viewed as the ruthless acts of conquerors—irrational, without motive or considerable premeditation—and therefore not reflective on the consciousness of the society which permitted it. This is not true of law as it has been applied to California Indians.

Law is a more accurate reflector of the conscience of American society than any other activity, because it must ultimately rely on support from the culture as a whole. Unlike the rules of morality, law is surrounded by and intertwined with customs and rites which reveal attitudes and beliefs hidden by the bare rule. It is therefore all the more despicable that the genocide has continued to occur throughout the 20th century.

The law has been used to remove from the California Indians land and most of the remnants of their culture. In some instances it has been because Indians were not informed of their rights or their need to petition; in other instances they have been poorly represented; and in still others the Congress has made laws which, although may have been intended to benefit Indians, were in fact instrumental in furthering the cycle of destruction.

It may be possible to somewhat mitigate the hardship and degradation still endured by the surviving California natives. There can be no justifi-

cation for Indians living as "squatters" when the very instrumentality by which their lands were stolen from them—the federal government—owns 44% of California, of which 14% is vacant. The Indians realistically need but a fraction of 1%. Similarly, there is no justification for the multiplicity of land problems now afflicting reservations, rancherias and allotments when the means are at hand, at a relatively small cost, to remedy such problems.

Land is critical to Indian cultural survival. It is religiously sacred to Indians and for many it can provide a dignified, secure home. For some it can increase economic self-sufficiency and help provide a more adequate standard of living. The alternative to constructive action is continuing genocide...injustice, festering bitterness and the final death of the first Californians.



California Indian Legal Services

California Indian Legal Services provides legal assistance and advice to Indians throughout the state. The Native American Rights Fund was originally a pilot project of CILS, and the Fund continues to have a close working relationship with the California program.

CILS recently established the California Rural Indian Land Consolidation Project, with the assistance of

the Office of Economic Opportunity. The primary objective of the project is to obtain land for landless California Indians, and to help existing reservations with their land problems, including boundary disputes, clouded titles, rights of way and others.

For further information about CILS and the Land Project write to the CILS Central Office:

Bruce R. Greene, Executive Director
California Indian Legal Services
2527 Dwight Way
Berkeley, California 94704
Telephone (415) 845-6171

CILS also has branch offices in Bisho, Escondido, Eureka and Ukiah.

Deganawidah-Quetzalcoatl University

Descendants of Native Americans in the United States number approximately 7 to 8 million persons. The people share racial and cultural values which they have maintained in spite of persistent efforts to assimilate them into the dominant society.

It is the consensus of the Native American community that its cultural heritage may be preserved and enhanced through educational opportunities at an ethnic university. To that end, the nation's first American Indian-Chicano University was founded in 1971. It is located in north-central California on land seized by Chicano and Indians after it had been abandoned by the United States Army. The 640 acre campus called Deganawidah-Quetzalcoatl University, in memory of leading figures in Iroquois and Aztec history, welcomed its first class in July of 1971. The D-Q curriculum consists of agricultural, liberal arts and vocational offerings; it emphasizes studies in Native American history and contemporary culture.

Prospective students and interested persons may write for further information about D-QU to Director Student Services:

Deganawidah-Quetzalcoatl University
P.O. Box 409
Davis, California 95616
Telephone: (916) 758-0470

Native Tribes And Groups Of California In 1770

(approximate total population—300,000)

Tolowa	Yuma
Hupa	Halchidhoma
Whilkut	Kohuana
Mattole	Mohave
Wailaki	
Nongatl	Wintun
Lassik	Wintu
Sinkyone	Nomlaki
Kato	Patwin
Bear River	
Yurok	Maidu
Wiyot	Nisenan
Yuki	Miwok
Huchnom	Costanoan
Wappo	Yokuts
	Modoc
Shasta	Mono-Bannock
Konomihu	Paviotso
Okwanuchu	Owens Valley Paiute
Achomawi (Pitt River)	Mono Lake Paiute
Atsugewi	Monache
	Panamint Shoshone
Yana	(Koso)
Yahi	Ute-Chemehuevi
Karok	Chemehuevi
Chimariko	Kawaiisu (Tehachapi)
Pomo	Kern River
Washo	Tubatulabal
Esselen	Bankalachi
Sallinan	Serrano
Antoniano	Kitanemuk (Tejon)
Migueleno	Alliklik
Playano	Mohineyam
	(Vanyume)
Chumash	Serrano
Obispeno	
Purisimeno	Gabrielino
Ynezeno	Fernandeno
Barbareno	Gabrielino
Ventureno	Nicoleno
Emigdiano	
Cuyama	Luiseno-Cahuilla
Island	Juaneno
	Luiseno
Yuman	Cupeno
Diegueno	Cahuilla
Kamia	

Known Tribes And Reservations In California In 1972

(approximate total population—40,000)

Agua Caliente Band
Agua Caliente Reservation

Pitt River Tribe
Alturas Rancheria
Likely Reservation
Lookout Rancheria

Barona Group of Capitan Band of Mission Indians
Barona Reservation

Augustine Band of Mission Indians
Augustine Reservation

Maidu Tribe
Berry Creek Rancheria
Enterprise Rancheria
Mooretown Rancheria
Nevada City Rancheria
Auburn Rancheria (mixed)
Greenville Rancheria
Strawberry Valley Reservation

Paiute-Shoshone Tribes
Big Pine Reservation
Bishop Reservation
Lone Pine Reservation

Cabazon Band of Mission Indians
Cabazon Reservation

Cahuilla Band of Mission Indians
Cahuilla Reservation

Mission Band of Indians of Campo Community
Campo Reservation

Viejas, Barona and non-reservation Indians
Capitan Grande Reservation

Paiute Tribe
Cedarville Rancheria
Fort Bidwell Reservation
Fort Independence Reservation

Mono Tribe
Cold Springs Rancheria
Big Sandy Reservation (Auberry)

Cahil Dehe Band of Wintun Indians
Colusa Rancheria

Wintun Tribe
Cortina Rancheria
Rumsey Rancheria

Cuyapaipe Band of Mission Indians
Cuyapaipe Reservation

Pitts Tribe
Big Bend Rancheria

Mojave Tribe
Fort Mojave Reservation

Quechan Tribe
Fort Yuma Reservation

Nomalacki-Wailacki Tribe
Grindstone Creek Rancheria

Yurok Tribe
Hoopa Extension Reservation
Hoopa Valley Reservation
Trinidad Reservation

Inaja-Cosmit Tribe
Inaja-Cosmit Reservation

Me-Wuk Tribe
Jackson Rancheria
Sheep Ranch Rancheria
Buena Vista Rancheria
Cortina Rancheria
Shingle Springs
Chicken Ranch

La Jolla Band of Mission Indians
La Jolla Reservation

La Pasta Band of Mission Indians
La Pasta Reservation

Cahto Tribe
Laytonville Reservation

Los Coyotes Band of Mission Indians
Los Coyotes Reservation

Manzanita Band of Mission Indians
Manzanita Reservation

Mesa Grande Band of Mission Indians
Mesa Grande Reservation

Pomo-Patwin Tribe
Middletown Rancheria

Mission Creek Band of Mission Indians
Mission Creek Reservation

Morongo Band of Mission Indians
Morongo Reservation

Pala Band of Mission Indians
Pala Reservation

Pauma Band of Mission Indians
Pauma Reservation

Pechanga Band of Mission Indians
Pechanga Reservation

Cahuilla Band of Mission Indians
Ramona Reservation

San Luiseno Band of Mission Indians
Rincon Reservation

Yuki, Pitt River, Little Lake, Konkow, Wylacki, Pomo, Nomalacki and Wintun Tribes
Round Valley Reservation

San Manuel Band [of Mission Indians]
San Manuel Reservation

San Pascual Band of Mission Indians
San Pascual Reservation

Tache Tribe
Santa Rosa Rancheria

Santa Rosa Band of Mission Indians
Santa Rosa Reservation

Santa Ysabel Band of Mission Indians
Santa Ysabel Reservation

Santa Ynez Band of Mission Indians
Santa Ynez Reservation

Soboba Band of Mission Indians
Soboba Reservation

Pitt River-Paiute Tribe
XL Reservation

Paiute, Maidu, Pitt River and Washoe Tribes
Susanville Rancheria

Sycuan Band of Mission Indians
Sycuan Reservation

Torres-Martinez Band of Mission Indians
Torres-Martinez Reservation

Tule River Tribe
Tule River Reservation

Tuolumne Band of Me-Wuk Indians
Tuolumne Rancheria

Twenty-Nine Palms Band of [Mission] Indians
Twenty-Nine Palms Reservation

Viejas Group of Capitan Grande Band of
Mission Indians
Viejas Reservation

Pomo Tribe
Sulphur Bank Rancheria
Big Valley (Mission) Reservation
Cache Creek Reservation
Lower Lake Reservation
Robinson Reservation
Scotts Valley (Sugar Bowl) Reservation
Upper Lake
Coyote Valley Reservation
Guidville Reservation
Hopland Reservation
Manchester-Point Arena Reservation
Pinoleville Reservation
Potter Valley Reservation
Redwood Valley Reservation
Cloverdale Reservation
Dry Creek Reservation
Graton Reservation
Lytton Reservation
Mark West Reservation
Stewart's Point Reservation

National Indian Law Library Tribal Index

The National Indian Law Library is in the process of compiling a Tribal Index which will list all tribes known in the United States since its discovery. It will also include native villages of Alaska and all reservations existing today.

The Index will be used in conjunction with the Indian Claims Commission Reports and the regular holdings of the National Indian Law Library. Anyone wishing information about any tribe will be able to look up the tribe in the index and find a listing of all cases in which that particular tribe has been involved.

Persons interested in this project, who either may have information about little known tribes or who would like to purchase a copy of the National Indian Law Library Tribal Index should write directly to:

Diana Lim, Research Associate
Native American Rights Fund
National Indian Law Library

1506 Broadway
Boulder, Colorado 80302
Telephone (303) 447-8760

ext. 48

National Indian Law Library Holdings

The following is a list of recent acquisitions now available through the National Indian Law Library. Together with the lists in the first and second issues of *Announcements*, they comprise a current listing of all Library holdings. We will continue to up-date this list in subsequent issues of *Announcements*.

The Library will soon have access to an off-set press to be used in printing the complete catalogue of documents available in each case and the subject index. We have already been receiving requests for these items. The document catalogue will be ready near the end of October, and the subject index later this year. If you are interested in receiving either of these documents, please fill out the Subscription and Catalogue request form on the last page of this issue.

The recently acquired case materials are divided under very general subject headings pending publication of our comprehensive Subject Catalogue. The number in the upper left hand corner is the Library acquisition number and should be used in ordering materials. The line directly below the title gives the state, court(s), tribe(s), and date(s) when applicable. The court, except where shown as a Federal Court, tribal court or administrative agency, is a court of the state indicated at the beginning of the line. The courts listed are not meant to be a history of the case, but only refer to the documents in the library files. The date is that of the earliest document in the case in our files. The date preceded by the letter "d" indicates the date on which the case was settled or decided. If no date preceded by the letter "d" indicates the date on which the letter "d" is shown, then the case is undecided, on appeal in another court, or the decision is unreported and we have no record of it. If only a date preceded by the letter "d" is shown, then all of the litigation in our file occurred during the year of the decision. The symbol (C—) indicates a connected or consolidated case.

Although the Library has made every effort to make our files as complete and accurate as possible, there may be errors which we rely upon you to help us correct.

1005— Acquisition Number
Wisconsin v. Richard Gurnoe.
Wisc., Cir. Ct., Sup. Ct., Chippewa, 1970, d. 1972

State Courts Tribe Dates

(C. 1006).—Connected or consolidated case

ADMINISTRATION OF INDIAN AFFAIRS

001297

Freeman, Enola E. v. Morton, Rogers C. B.
Wash., D.C., D.D.C., 1972.

Action challenging B.I.A. interpretation statutes concerning Indian preference as playing only to initial hiring.

001332

Thompson, Mae v. Hickel, Walter J.
N.M., D.N.M., Navajo, 1970.

Action contesting Dept. of Int. regulation prohibiting general assistance grants supplement state welfare to reservation Indians.

001496

Begay, Sally John v. Graham, John O.
Ariz., Super. Ct., Navajo, 1969.

Action contesting denial of state welfare benefits to family because family's resources exceeded allowable maximum.

001497

Smith, Joe v. Finch, Robert H.
Ariz., D. Ariz., Navajo, 1969.

Action contesting administrative decision denying Social Security Disability Insurance benefits to Indian.

001505

Burcell, William v. Armstrong, Ellis.
Cal., E. D. Cal., 1972.

Suit alleging federal flood relief program administered that allottee's property unreasonably susceptible to flood, thus reducing value and endangering life.

CIVIL RIGHTS

001302

Wilber, Lillian v. Board of Education of J.
School District No. 8.

Wis., W.D. Wis., Menominee, 1972.

Action charging school officials with discriminating against Indian students in enrollment curriculum.

001490

Ferrell, Derryl v. Kerr, Henry W.
Cal., N.D. Cal., 1972.

Action by Indian prisoners charging violation of 14th Amendments rights in parole policies.

001504

Duro, Raphael v. Valley Center Union School District.

Cal., S.D. Cal., Rincon Band, 1972.

Action to prevent school officials from pending Indian male students for violation of school hair length regulations.

001508

California v. Carrillo, Joe.
Cal., Just. Ct., 1972.

Suit alleging unconstitutional discrimination in composition of master panel of jurors: detriment of Indians and Mexican Americans.

001513

Shepard, Grover Lee v. Justice Court, Court of Inyo, Southern Inyo Judicial District.

Cal., Super. Ct., 1972.

Suit alleging denial of equal protection in prosecution for public drunkenness.

001520

San Diego Unified School District v. Attorney General of the State of California.

Cal., U.S. Sup. Ct., 1971.

State action to desegregate de facto racial imbalance in school district.

HUNTING AND FISHING RIGHTS

001321

Confederated Tribes of the Umatilla Indian Reservation v. Maison, H. G.

Ore., D. Ore., 9th Cir., Walla Walla, Cayo Umatilla, 1960, d. 1963.

Action to ascertain extent of off-reservation fishing rights given Indians in treaty.

001322

Confederated Tribes of the Umatilla Reservation v. Maison, H. G.
Ore., D. Ore., Walla Walla, Cayuse, Umatilla, 1966, d.1967.

Action to ascertain extent of off-reservation hunting rights given Indians in treaty.

001333

Organized Village of Kake v. Egan, William A.
Alaska, D. Alaska, U.S. Sup. Ct., 1959, d.1962 (C.1334, 1299).

Action to prevent enforcement of state fishing regulations against Alaskan Indians.

001334

Angoon Community Association v. Egan, William A.
Alaska, D. Alaska, U.S. Sup. Ct., 1959, d.1962 (C.1333, 1299).

Action to prevent enforcement of state fishing regulations against Alaskan Indians.

001500

Minnesota v. Clark Angus.
Minn., Probate Ct.; Dist. Ct., Minn. Chippewa. Prosecution of Indian, guaranteed hunting rights by treaty, for on-reservation violation of state game laws.

001509

Washington v. Finkbonner.
Wash., Dist. Ct., Lummi, 1972.

Action to determine state's authority to regulate off-reservation possession of crabs for commercial purpose by Indian.

JURISDICTION

001301

South Dakota v. Molash, Joe.

S.D., Sup. Ct., Sioux, 1971, d.1972.

State prosecution of Indian for forgery committed in Indian country.

001303

Wauneka, Pauline v. Campbell, David.
Ariz., Super. Ct., Navajo, 1971.

Action to prohibit application of state financial responsibility regulations to on-reservation accidents involving Indians.

001305

White Mountain Apache Tribe v. Shelley, Melvin T.

Ariz., Sup. Ct., White Mountain Apaches, d. 1971.

Action challenging state court authority to enforce contract between tribal and non-Indian companies.

001329

United States ex rel. Tildon Louis Condon v. Erikson, Don R.

S.D., D. S.D., Cheyenne River Sioux, d. 1972.

Suit claiming state lacked jurisdiction over crime committed by Indian in portion of reservation opened to white settlement by Act of Congress.

001336

Kills Plenty, Percy v. United States.

S.D., 8th Cir., Rosebud Sioux, 1972.

Appeal by Indian acquitted of driving while intoxicated by tribal court and then convicted of involuntary manslaughter arising from same incident in federal court.

001343

Davis, Arnold, In the Matter of the Application for a Writ of Habeas Corpus.

Davis, Arnold v. Warden, Nevada State Prison. Nev., Dist. Ct., Sup. Ct., Pyramid Lake, 1970. Habeas corpus proceedings claiming state court lacked jurisdiction over Indian and reservation where offense occurred.

001501

Makah Indian Tribe v. Washington.

Wash., Super. Ct., Sup. Ct., U.S. Sup. Ct., Makah, 1966, d.1970.

Action to declare reservation and roads on reservation outside of state jurisdiction.

001506

Montana v. Redneck, Leonard.

Mont., Just. Ct., Crow, 1972.

Criminal prosecution for traffic violation; offense allegedly committed off-reservation, but apprehension and summons issued on highway within reservation.

001521

Whyte, Clifford Becher v. District Court of Montezuma Country.

Colo., Sup. Ct., U.S. Sup. Ct., Ute Mountain Tribe, d.1959.

Action to determine whether state court or tribal court has jurisdiction to grant divorce between enrolled Indians married on reservation.

PROBATE

001304

Crowe, Nettie S. v. Eastern Band of Cherokee Indians, Inc.

N.C., W.D.N.C., Eastern Band of Cherokees, 1972.

Action to set aside tribal assignment of part of Indian's inherited lands to another heir.

001493

Akers, Dolly Cusker v. Secretary of the Interior.
Mont., D. Mont., 9th Cir., 1970.

Action contesting will of Indian's deceased husband.

TAXATION

001058

Your Food Stores, Inc., v. Village of Espanola, New Mexico.

N.M., Sup. Ct., Santa Clara, d.1961.

Action contesting annexation and subsequent taxation of Indian land by municipal corporation.

001326

Moore, Frederick J. v. Johnson, Ernest H.
Maine, Super. Ct., Passamaquoddy, 1971.

Action by Indian to declare on-reservation sales transaction non-taxable.

001327

State Tax Commission v. Rocky Mountain Hall.
Wyo., State Admin. Proceeding, Arapaho, Shoshone.

Action to prevent state from imposing tax on Indians or their businesses on Indian reservation.

001328

Applebee, Minnie, In re.

Minn., Dist. Ct., Chippewa, 1972.

Proceedings to enforce property tax against Indian residing on reservation.

001331

Colombe, Thomas J. v. Todd County.

S.D., Cir. Ct., Rosebud Sioux, d.1965.

Action by enrolled Indian who was refused abatement of state personal property tax while living on reservation.

001502

Makah Indian Tribe v. Clallam County.

Wash., Super. Ct., Sup. Ct., Makah, 1965, d.1968.

Action to prohibit state taxation of Indian-owned business on reservation.

001503

Makah Indian Tribe v. Tax Commission of the State of Washington.

Wash., U.S. Sup. Ct., Makah, 1968, d.1970.

Action to restrain state from taxing cigarettes sold to Indians on reservation.

001507

Wilson, Robert S. v. Montana.

Mont., Dist. Ct., Crow, 1972.

Suit challenging levy of state income tax against salary of Indian earned wholly within reservation from job in tribal commodity program.

TERMINATION

001298

Albers, Lucille J. v. Morton, Rogers C. B.
Cal., E.D. Cal., 1972.

Action claiming Indians were illegally deprived of allotments by termination of rancheria without Indians knowledge or consent.

TRESPASS, INDIAN LAND

001342

Baker, Constance Frye v. California.

Cal., Super. Ct., Hoopa Ext. Res., 1972.

Action by Indian allotment holders claiming county and state trespassed in building and maintaining a road crossing Indian land.

001344

Orcutt, Harvey v. County of Humboldt.

Cal., Super. Ct., 1972.

Action by Indian allotment holder claiming county trespassed in locating a road across his land.

001345

Pauma Band of Mission Indians v. County of San Diego.

Cal., S.D. Cal., Pauma Band of Mission Indians, 1972.

Trespass action against state and county for building and maintaining a highway across Indian reservation.

001346

Inaja Band of Mission Indians v. County of San Diego.

Cal., S.D. Cal., Inaja Band of Mission Indians, 1972.

Trespass action against county for constructing and maintaining road within Indian reservation.

001511

Baker, Constance Frye v. California.

Cal., D. Cal., Hoopa Extension Reservation, 1972.

Action in trespass against state for building road across tribal land and asking for U.S. representation in the action.

TRIBAL MEMBERSHIP

001340

Laramie, June Karen v. Nicholson, Narcisse, Jr.
Wash., 9th Cir., Colville Confederated Tribes, 1972.

Action by Indian minors seeking adoption into tribe and tribal dividends from date of adoption application.

001499

Thompson, Alice M. v. Tonasket, Mel.

Wash., 9th Cir., Colville, 1972.

Action brought by Indian for re-enrollment in tribe and for tribal dividends lost.

TRUST OBLIGATIONS

001087

Passamaquoddy Tribe v. Commonwealth of Massachusetts.

Mass., Super. Ct., Passamaquoddy, (C.1495). Suit alleging breach of treaty and trust obligations arising from treaty made between state and tribe.

001298

Albers, Lucille J. v. Morton, Rogers C. B.

Cal., E.D. Cal., 1972.

Action claiming Indians were illegally deprived of allotments by termination of rancheria without Indians knowledge or consent.

001495

Joint Tribal Council of the Passamaquoddy Tribe v. Secretary of the Interior.

Maine, D. Maine, Passamaquoddy, 1972. (C. 1087).

Suit seeking order for Dept. of Justice to represent tribe in its claims against state of Maine although no formal treaty exists between tribe and federal government.

WATER RIGHTS

001347

Los Coyotes Band of Mission Indians v. Vista Irrigation District.

Cal., S.D. Cal., Los Coyotes Band of Mission Indians, 1972.

Action claiming violation of Indian band's water rights in use of groundwater.

001348

Pala Band of Mission Indians v. Escondido Mutual Water Company.

Cal., S.D. Cal., Pala Band of Mission Indians, 1972.

Suit arising from construction of dam and reservoir on tribal land resulting in loss of water to tribe.

001349

Capitan Grande Band of Mission Indians v. Helix Irrigation District.

Cal., S.D. Cal., Capitan Grande Band of Mission Indians, 1972.

Suit arising from construction on tribal land of dam and reservoir resulting in loss of water to tribe.

001510

Rincon Band of Mission Indians v. Vista Irrigation District.

Cal., D. Cal., Rincon Band of Mission Indians, La Jolla Band of Mission Indians, 1972.

Action by tribes to recover damages from and prevent further diversion and appropriation of river water in violation of paramount water rights.

MISCELLANEOUS

001300

Mobil Oil Corporation v. Local Boundary Commission.

Alaska, Super. Ct., 1972.

Action by oil companies to prevent incorporation of borough on Alaska North Slope thereby subjecting oil property to taxation.

001324

California Indian Education Association v. Morton, Rogers C. B.

Cal., E.D. Cal., 1972.

Action to declare illegal regulations stipulating JOM funds go only to school districts with large blocks of non-taxable Indian property or large numbers of Indian children.

001325

Dillon, Phoebe Wilson v. Antler Land Company.

Mont., D. Mont., Crow, 1971, d.1972.

Action by Indian to recover land lost in allegedly fraudulent transaction.

001330

Cherokee Nation v. State of Oklahoma.

Okla., 10th Cir., Cherokee, Choctaw, Chicksaw, d. 1972.

Action by tribe claiming title to riverbed containing oil and gas deposits.

001337

Rosebud Sioux Tribe v. Knelp, Richard (Honorable).

S.D., D.S.D., Rosebud Sioux, 1972.

Action seeking to ascertain meaning of certain acts of Congress defining boundaries of reservation.

001491

Walker River Paiute Tribe of Nevada v. Southern Pacific Transportation Co.

Nev., D. Nev., Walker River Paiute Tribe, 1972.

Action arising from construction and maintenance of railway on tribal lands in violation of federal regulations and from breach of contract with tribe.

001492

Lake, Kee v. Peabody Coal Company.

Ariz., D. Ariz., Navajo, 1972.

Action by Indians based on Indian Civil Rights Act and breach of contract to recover damages for surface rights and property involved in Black Mesa mining operation.

001494

Grayson, Toche v. Tulsa Scottish Rite Charitable And Education Foundation.

Okla., Dist. Ct., Creek, 1962, d.1963.

Action arising from alleged unlawful holding and possession of lands inherited by Indians.



Steering Committee Of The Native American Rights Fund

Charles Lohah, Chairman, (Osage)
David Risling, Jr., Vice-Chairman, (Hoopa)
La Nada Means, Executive Committee,
(Shoshone-Bannock)

Alfonso Ortiz, Executive Committee,
(San Juan Pueblo)

Wendell Chino, (Mescalero Apache)

Fred Gabourie, (Seneca)

Leo Haven, (Navajo)

Philip Martin, (Mississippi Choctaw)

Francis McKinley, (Navajo-Ute)

John Stevens, (Passamaquoddy)

Richard Trudell, (Sioux)

Native American Rights Fund Staff

Director

David H. Getches

Deputy Director

John E. Echohawk (Pawnee)

Staff Attorneys

L. Graeme Bell, III

Joseph J. Brecher

Thomas W. Fredericks (Mandan)

Daniel H. Israel

Yvonne T. Knight (Ponca)

Douglas R. Nash (Nez Perce)

Robert S. Pelcyger

Thomas L. Smithson

Charles F. Wilkinson

Of Counsel

Reid Peyton Chambers

Vine Deloria, Jr. (Standing Rock Sioux)

Thomas N. Tureen

Assistant to the Director

Joan L. Carpenter

Legal Secretaries

Peri M. Bateman (Oglala Sioux)

Connie M. Benoist (Cheyenne River S

Gail L. Benoist (Cheyenne River Sioux

Janice C. Bray (Kiowa)

Mayredean C. Palmer (Kiowa)

Susan P. Roberson

Frieda Wagner (Pomo-Concow)

Patricia Wright

Maintenance

Ken Garry

Vic Hart

Receptionists

Norma A. Cuny (Oglala Sioux)

Sylvia C. Sweeney (Ottawa-Chippewa)

Records

Bernadine Quintana (Oglala Sioux)

Reproduction

Ronald Fundingsland

David Wray

Bookkeeper

Susan Rosseter Hart

Law Clerks

Richard L. Kalar

(UCLA Clinical Program)

Victor Palmer (Kiowa)

Barbara J. Walkingstick (Cherokee)

Barbara L. Webb (Tlinget)

National Indian Law Library

Librarian

Melody K. MacKenzie (Hawaiian)

Legal Advisor

Joseph R. Membrino

Research Associates

Peter S. Hrobsky

Diana Lim (Acoma Pueblo)

Secretary

Eileen Lente (Laguna Pueblo)

New Staff Of The Native American Rights Fund

Staff Attorney

Douglas R. Nash. Mr. Nash is a Perce Indian and a graduate of University of New Mexico School of Law, and past Executive Director of the American Indian Law Student Association. Prior to joining the Fund he worked with the Indian Civil Rights Task Force for the U.S. Department of Interior. Mr. Nash will be working with the Fund in the areas of hunting and fishing and other treaty rights of Native Americans.

Legal Advisor, National Indian Law Library

Joseph R. Membrino. Mr. Membrino is a graduate of Boston College Law School and a member of the Connecticut Bar. Until joining the Fund was a staff attorney with Waterbury Legal Aid and Reference Society, Waterbury, Connecticut. His work with the Library involves preparation of a general index to the Library holdings.

Native American Rights Fund Offices

Requests for assistance and information may be directed to the **main office**,

David H. Getches, Director
Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302
Telephone (303) 447-8760

or to the **Washington, D. C. office**,

L. Graeme Bell, III,
Staff Attorney
Native American Rights Fund
1712 N Street, N.W.
Washington, D. C. 20036
Telephone (202) 785-4166

Contributions to the Native American Rights Fund

The work of the Native American Rights Fund and the National Indian Law Library is supported solely by grants from private foundations, the Office of Economic Opportunity, and individual contributions. The Fund is continually in need of monies to

expand its work and to cover the cost of the publication of this newsletter. Contributions to the Fund and to the Library are tax deductible. A coupon is provided below for your convenience.

Enclosed is my contribution to assist the Native American Rights Fund in the assertion and protection of Indian rights and the orderly development of the body of law affecting Indians:

Name _____

Address _____

City _____

State _____

Zip _____

\$5 ☐ \$10 ☐ \$25 ☐ \$50 ☐ \$100 ☐

Other \$ _____

Make your check payable to Native American Rights Fund.

Mail to:

Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302

Announcements and Catalogue Request Form

Please check the boxes for publications you wish to receive:

1972-73 Issues of Announcements ☐

National Indian Law Library ☐

Current Holdings Catalogue ☐

Document Catalogue ☐

Subject Catalogue ☐

Native American Rights Fund
The National Indian Law Library
1506 Broadway
Boulder, Colorado 80302

Name _____

Address _____

City _____

State _____

Zip _____

Address correction requested

TIME VALUE

Nonprofit Org.
U.S. POSTAGE
PAID
Boulder, Colorado
Permit No. 589

Native American Rights Fund
The National Indian Law Library
506 Broadway
Boulder, Colorado 80302