Who We Are and What We Do

The AALL Native Peoples Law Caucus is an organization of law librarians operating within the American Association of Law Libraries. Established in 1993, when a small group of librarians met in common interest, the purpose of the caucus was decided at our second meeting the following year.

The purpose of the caucus is to encourage and facilitate the analysis, cataloging, collection, dissemination, management, organization, and preservation of native law in accordance with cultural tradition. The caucus is concerned with the laws of all indigenous peoples.

The caucus began in recognition that our mission covers many facets of law librarianship. For example, native peoples law includes the study of international law, and serving underrepresented population group, and the location of difficult to find material. Facets of the caucus' concerns could be covered in virtually every AALL special interest section, but native peoples law concerns could be easily foreshadowed and was falling through the cracks of attention.

The caucus meets once a year to set out its yearly agenda at the AALL general meeting each summer. Current projects are the development of an institute on Native American law, the monitoring of revisions of pertinent Library of Congress subject headings, contacts with the American Association of Law School Native American Law Section, the creation of classroom materials on pertinent law, and the encouragement and support for the mission of the AALL Standing Committee on Recruitment.

The caucus has published this newsletter since Summer, 1992. Generally, the newsletter contains original material not published elsewhere. Then AALL President, Mark Estes generously awarded the caucus seed money to support the formation of the newsletter. Its targeted audience are law librarians. The newsletter is available over the World Wide Web.

Thus, far the caucus has sponsored or cosponsored four programs at the annual AALL meeting. Membership consists of fifty members. Membership is open to all AALL members.

The Caucus will meet on Sunday, July 16, from 4:00 until 5:00 pm at the next AALL General Meeting in Pittsburgh. Check your registration materials for the location.
Caucus Coordinator Is Honored

deanna J. Harragarra waters, co-coordinator of the AALL Native Peoples Law Caucus, is this year's recipient of "The Spirit of Law Librarianship Award." An award presentation will be made on Sunday, July 15, at the Rivers Club, 8:30 p.m., during the Jamail Center for Legal Research Alumni and Friends Reception.

The award is presented annually to the American Association of Law Libraries member who, through his or her position, makes a contribution toward the improvement, or increased awareness, of a social condition. The award was created by Richard A. Leiter, Roy M. Mersky, and Paul Rothman.

deanna's work in Native American law is indeed worthy of recognition. Ms. Harragarra is a scholar, and a lawyer who is devoted to making tribal law accessible, and to developing Native American libraries. She brings the treasures of her heritage to the law librarian community in a myriad of ways.

To name several, deanna was a regular traveler from Colorado to Oklahoma to formulate opinions when she was a judge in the Otoe-Missouria's highest court. She is an active promoter, and advocated for the recognition of Native American law in the non-Indian sector. The staff of the U.S. Senate Select Committee on Indian Affairs has recognized her expertise and asked her to help write legislation which would improve libraries in the Native American communities.

American Indian Library Association

The American Indian Libraries Association is an extremely active group of librarians. Our own Joan Howland, Director of the Minnesota Law Library is her treasurer and encourages all AALL members to join.

The Association addresses the library-related needs of American Indians and Alaska natives. AILA members are individuals and institutions interested in the development of programs to improve Indian library, cultural and informational services in school, public and research libraries on reservations. AILA is also committed to disseminating information about Indian cultures, languages, values, and information needs to the library community.

AILA was organized in June, 1979, as an outgrowth of the White House Pre-Conference on Indian Library and Information Services on or near Reservations." In July, 1985, it became an affiliate of the American Library Association (ALA).

Purpose
AILA promotes the development of libraries and library systems in Indian Country. As tribal institutions, libraries provide the facility for preservation, documentation, study, and the promotion of Indian language, history, legal rights, and culture. In parallel, the library provides the foundation for tribal participation in the modern age of automation and technology.

AILA works cooperatively with other Indian organizations and the American Library Association.

Goals and Activities
- Promotes the establishment, maintenance and upgrading of Indian libraries on or near reservations and in other rural and urban areas.
- Develops criteria and standards for Indian libraries, and works for their adoption by other associations and accrediting agencies.
- Provides technical assistance to Indian tribes on the establishment and maintenance of archival services.
- Builds support for the development of Indian information networks, facilitating the exchange of information among Indian tribes, and also between these groups and major institutions maintaining Indian archives.
- Educates legislators, public officials, and the general public about the library/information needs of Indian communities.
- Brings together those interested in Indian libraries and cultures at AILA conferences and other library and educational conferences.
- Helps members of individual Indian communities to gain access to and use existing libraries to their best advantage.
- Works to enhance the capability of libraries to assist tribes and individual Indian authors in writing tribal histories and other Indian-related works.
- Encourages and helps to coordinate and plan the workshops, institutes and internships on Indian library services.
- Develops grant proposals and conducts fund-raising activities to support these and other Indian library projects.
- Helps develop awareness in the majority society that Indian people desire library information resources to help unlock their potential.

Membership
Membership includes the American Indian Libraries newsletter (AILN) which is published quarterly. Subscription rates are $25.00 for libraries, institutions, and agencies. They are $10 for individuals, and $5 for students.

Send subscription requests to Joan Howland, Law Library, University of Minnesota, 229 E. Spruce Street, Minneapolis, MN 55455. The AILA newsletter (013908207) contains a business news and job ements. The newsletter is published since Fall
A Feather Blessing with a Handshake Signifies the Making of a Social Legal Contract.

(Photograph taken by Carrie Goeringer at the International Treaty Council, Muskogee, 1993)

Indian Law Course Materials

At last year's caucus meeting in Seattle, we bemoaned the lack of teaching of Indian law or the mention of sovereign nations in traditional law school courses. In response, the caucus charged a committee led by Margaret Aycock to collect and to encourage the development of teaching lessons based on Indian law.

These lessons could be integrated into first year courses with an hour long lesson plan incorporating issues based on case reading. Subjects we hope to integrate with appropriate cases on Indian law are: civil procedure, contracts, criminal law, evidence, legal research & writing, property law, tax, torts, and family law.

Many teachers and students say there are no course materials which they would otherwise explore. For example, students of civil procedure need to know that there are potential questions of jurisdiction among and between tribal governments, and the state and federal branches.

It is too easy for someone to graduate from law school without even knowing that there are many nations within the U.S. We are consulting or asking law school professors to develop the lesson plans. For more information contact Maria Protti or Margaret Aycock.
Cherokee Nation Papers

The University of Oklahoma Western History Collections has received a $51,677 grant from the National Endowment for the Humanities to microfilm the rare Cherokee Nation Papers. The papers, which date from 1830 to 1907, consist of 104 linear feet of official records and publications from the early Cherokee Nation. Also included are the family papers of four prominent Cherokee Indian leaders: James Madison Bell, Stand Waite, John Rollin Ridge and Elias C. Boudinot I.

The collection reveals the personal impact of Indian removal from the southeastern United States, the formation and operation of the Cherokee nation government, and the formation and growth of Cherokee Nation institutions. The personal papers are significant because they are extremely rich in political and socio-economic information," said Donald L. DeWitt, curator of the Western History Collections, which is part of University Libraries at OU.

"They provide researchers with an Indian perspective on the development of the Cherokee Nation and its consolidation with the state of Oklahoma," he said. "The papers help explain an Indian government and society that many people do not know existed."

The records and papers also are important because they are not duplicated in federal archives or elsewhere, DeWitt explained.

The one-year microfilming project will be conducted in cooperation with the Oklahoma Historical Society, which will provide a microfilm camera and operator. In exchange, OU's Western History Collections will provide a copy of the complete microfilm set for the Oklahoma Historical Society's archives. The papers will complement similar and unduplicated Cherokee nation records at the historical society.

DeWitt added that the project represents the first cooperation between the Western History Collections and the Oklahoma Historical Society since the 1930s, when the two entities teamed up to develop and share a Works Progress Administration oral history project known as the "Indian-Pioneer Papers."

Upon completion, the microfilmed Cherokee Nation Papers will be available to institutions and individuals through interlibrary loan or purchase, DeWitt said. "Microfilming the Cherokee Nation Papers will ensure that future generations of historical researchers will have access to this unique and important body of records."

"With the Cherokee Nation Papers on microfilm, researchers will no longer have to travel to OU to use them. While the Western History Collections could not loan the original documents because of the risk of loss, microfilm is replaceable and can be loaned to participating libraries through the interlibrary loan process," DeWitt said.

OU's Western History Collections is recognized as one of the Nation's most important resources on the American West, contains books, documents, papers and photographs.

Molly McCluer

Molly McCluer served as editor of this newsletter for two years. As editor, she set a high standard for reporting on current activities and recording development in the tracking and research of Native American law. The quality of her editing and layout skills are high, as many can attest who praised the caucus' newsletters from the start.

Molly has helped the caucus in other ways. In the summer of 1994 in her home state of Washington, Molly coordinated a part-time program on tribal government and Indian law. The successful program brought much attention to our young caucus and attracted some very high-ranking tribal leaders both from the tribes and the federal government to speak to the general AAIL membership.

Book Review


This is the story of the longest pretrial criminal case in U.S. history. The case began in Portland, Oregon in 1975 and ended in 1986. It never went to trial.

One of the defendants in the case was Dennis Banks, the famous founder of the American Indian Movement who is a leader among those seeking the insurance of Indian people's rights. The other defendants are also well known in the American Indian Movement: Kenny Loud Hawk, Russell Redner, Anna Mae Aquash, Kamook Banks, and Leonard Peltier.

Loud Hawk recounts the armed conflict that erupted at Wounded Knee, on the Pine Ridge Indian Reservation at South Dakota in 1973. The conflict resulted in the shootings that are the main subject of the book. Much federal Bureau of investigation involvement took place and the U.S. government devoted a strong amount of resources toward struggling with these American Indians.

This book is recommended for anyone who would like to understand contemporary Indian affairs. It captures the irrational face of the judicial system and highlights the idealism of the author who was a lawyer for the defense. Kenneth S. Stern was involved in the case first as a student volunteer and later as lead counsel before the U.S. Supreme Court. Dennis Banks asked him to write this book.

As Ada Deer, Assistant Secretary to the Interior, told Molly, "You do important work. I realize how important the caucus is." The next time you see Molly, please thank her for her generous work toward the good of the caucus.
on the Pine Ridge Reservation from 1973 to 1976. The names of those who died are given along with the dates and causes of their deaths and any FBI investigations into their murders.


He states that there is too much devotion to a sort of ritual potluck and mishmash of spiritual tradition. This debases and dissolves anything sacred as a cultural anchor for the peoples who conceived and developed them.

"Declaration of War Against Exploiters of Lakota Spirituality" is a reprint of the ratification by the Dakota, Lakota, and Nakota Nations on June 1953 of a resolution declaring, among other things, war against all persons who exploit, abuse, and misrepresent the sacred traditions and spiritual practices of the nations.

More explanations of the Abuse and Exploitation of American Indian Sacred Traditions describes the purpose behind the Center for the SPIRIT (Support and Protection of Indian Religious and Indigenous Traditions). SPIRIT is a nonprofit organization of American Indian people who want to preserve and revitalise spiritual practices and religious traditions. Located in San Francisco, Bay Area it is also called the "Age" exploitation and expropriation of the sacred traditions of American Indian Nations.

They do not want their precious, sacred traditions to be degraded or misused. Instead, they want the traditions to continue to afford strength and vitality to the struggles of the American Indian People.

"Do It Yourself 'Indianism' The Case of Ed McGee's Mother Earth Spirituality." Churchill maintains that every indigenous nation has two histories which began after contact with EuroAmericans. One came about in the face of native patriotism signified by those who fought back against overwhelming odds to defend their nation's rights and ways of life. The other history is of those, who obediently and with self-interest, joined with the invader to destroy their nation's ability to resist colonization. This dual history explains how today some American Indians are distorting native American conceptual property, the Nations' spiritual practices and understanding.

In "Naming Our Destiny: Toward a Language of American Indian Liberation," Churchill points to that referring to someone, including oneself as a member of such-and-such Indian tribe is not a value-neutral act. Tribalism is a political construct. Churchill prefers the notion of "Nation" over the notion of "tribe."

Early American Indian Documents: Treaties and Laws, 1607-1789

A new, twenty volume set Early American Indian Documents ISBN 0-89093-180-1 contains the laws concerning American Indians passed by colonial, state, and national governments before 1789. Also contained are all significant diplomatic treaties, conferences, and official correspondence during this period. This collection appears chronologically and has an inclusive scope. At least seven volumes are in print; additional volumes are underway.

This collection is important because it is the first comprehensive collection of early documents about American Indians. Each chapter is introduced and there are detailed footnotes and a bibliography. There is a general editor and board of editors for the project who have written in the area of the legal or historical aspects of early Indian-Euro-American culture contact.

The publisher "University of America" describes this important collection for its ease of use:

To research whether a tribe has made a duly approved resolution, law, statute, or referendum vote "opting in", one must make inquiries of the Assistant U.S. Attorney of Indian Affairs to see if the subject tribe is on record as having done so. One should also consult the tribal constitution, statutes, or other legal authority to check that there is a demonstration that the governing body taking the action to opt-in is authorized to do so under tribal law.

On September 13, 1994, President Clinton signed the new "Crime Bill", the Violent Crime Control and Law Enforcement Act of 1994 into law. Three provisions of the Act give tribes a clear voice in the decision to apply section of the Act to federal felony offenses committed within Indian country.

These three sections of the Act give tribal governments the option of participating in the new law or not.

The three specific areas are: (1) the death penalty, (2) "three strikes" mandatory life provision, and (3) juvenile transfers to adult status for thirteen and fourteen year old offenders.

Death Penalty

The Act expanded the Federal death penalty to cover about 60 offenses, including terrorist homicides, murder of a federal law enforcement officer, large-scale drug trafficking, drive-by shootings resulting in death and carjackings resulting in death.

Specifically, the United States Attorney will be able to prosecute a murder case in a death penalty case under 18 U.S.C. 1153 only if the tribe has taken formal action authorizing such prosecutions as capital cases.

Our Newsletter

Interested in reading back issues of this newsletter? Law libraries across the nation now collect the AALL Native Peoples Law Caucus Newsletter. Here are some helpful identifiers:

OCLC: 28238522; ISSN: 1070-034X; LC#: 93-640914; LC Cal # KP8201.A3A38; Subjects: Indian Affairs, Law Libraries

This Newsletter is listed in Legal Newsletters in Print.
A Land Grab in 1995?

For many years, a problem has faced individual Native Americans. Indian tribes, and the Bureau of Indian Affairs—the fractionalized ownership of allotted lands. The problem has reached the point where the Department is unable to administer trust lands, probate trust estates, and maintain the Individual Indian Money System being taxed beyond its ability to cope with the ever-increasing level of fractionation.

To address this problem the Department of the Interior has drafted an amendment to the Indian Land Consolidation Act of 1983, aimed to end fractionation by restricting who can inherit trust land, and by reducing the lands held in trust status by both tribes and individual Indians.

Background

In 1887 Congress enacted the General Allotment Act (GAA). This Act directed the division of tribal lands into small parcels and the allotment of these parcels to individual Indians. The purpose of the Act was to accelerate the integration of Indians into the general society by making them private landowners and successful farmers. Many Indians sold their land, but a few assimilated into the surrounding non-Indian communities. By the 1930's it was widely accepted that the GAA had, for the most part, failed. In 1934, Congress, in Section 1 of the Indian Reorganization Act, stopped the further allotment of tribal lands. A direct result of the GAA was the loss between 1887 and 1934 of over 100,000,000 acres of land from the Indian trust land base.

As originally envisioned, allotments were to be held in trust by the United States for their Indian owners for no more than 25 years. At the end of the 25 years, the land would be conveyed in fee simple to its Indian owners. Many allottees died during the 25 year trust period. In addition, it quickly became evident the allottees were not assimilating into the general society and continued to need Federal protection. As a consequence, Congress enacted limited probate laws and authorized the President to extend the trust period for those individuals who were not competent to manage their lands. The presumption was, however, that at some point in the future, the lands would be conveyed to their Indian owners free of Federal restrictions. Therefore, Congress did not amend the probate laws even though it continued to extend the period of trust protection. Under the Indian probate laws, individuals died, their property descended to their heirs as undivided "fractional" interests in owning a 160-acre allotment died and had four heirs, the heirs did not inherit 40 acres each. Rather, they each inherited 1/4 interest in the entire 160 acre allotment. As the years passed, fractionation has expanded geometrically to the point where there are hundreds of thousands of tiny fractional interests.

The Department of the Interior is charged with maintaining Federal Indian land records on these hundreds of thousands of fractional interests and with probating the estates of every Indian individual and their own fractional interest in an allotment. In many cases, the fractions are so small that the cost of administering the fractional interest far exceeds not only any income derived from the property, but also the value of the property itself.

In 1984, Congress attempted to address the fractionation problem with the passage of the Indian Land Consolidation Act (ILCA). The ILCA limited the buying, selling, and trading of fractional interests, but most importantly it provided for the escheat to the tribes of interests of less than 2 percent. Although over 55,000 of the 2 percent or less fractional interests have escheated since passage of the ILCA in 1984, the problem of fractionation continues to worsen. The cost of maintaining heirship records and probating the land is inordinately expensive for the BIA. Approximately 50-75 percent ($33 million) of the BIA's realty budget goes to administering these fractional interests. Other programs are, likewise, adversely impacted, e.g., trust funds, forestry, and range management, transportation, social services, etc., utilization, and/or conveyance of the fractionated property by owners is also difficult because of the need to secure the consent from the numerous other owners.

Proposed Solution

Many tribal governments object the BIA's current proposal to eliminate small fractions. The proposed amendment narrowly defines the identification of who is Indian. In the past there has been no fixed cutoff for inheriting in trust other than the requirement that the heir be of "documentable" Indian blood. The tribes argue that cods governing inheritance should be left to the tribe. The proposal administratively reduces the population who can inherit lands in trust status. There are further limits in the proposal on who can inherit fractionated interests. Only tribal members related in the second degree could inherit. Otherwise, the interest would go to the tribe. This has a heavy impact on Indian landowners who are related beyond second degree and families who descend from more than one tribe. The proposal would mandate an acquisition plan under which the Secretary of the Interior is authorized to acquire interests which are less than two percent of the interest in a tract. Tribes have no control over the acquired interests. Any interest which is two percent or less will not be inherited but will pass to the tribe. The interest will not be based on the long-term use of the land but on actual income produced or the current market value. No compensation to the landowner and no notification is required for the interest to pass to the tribe.
The Nation of Hawai'i is proud to announce our service on the World Wide Web to provide information regarding the legal foundation for the restoration of Hawaiian independence, along with cultural perspectives from the people of Hawai'i.

http://www.aloha.net/nation/hawaii-nation.html

FEATURES:

As of February 18, 1995, this service includes:

- LEGAL DOCUMENTATION- includes excerpts of:
  - The Apology Resolution (US Public Law 103-150), Nov. 23, 1993
  - Legal Testimony of Prof. Francis A. Boyle, Dec. 28, 1993
  - Proclamation of Independence, Jan. 16, 1994

(Pull text these documents may also be obtained through the Nation's Automated Document Retrieval System. Send an empty message to: <info@hawaii-nation.org> to receive an index of files available, and instructions for retrieval.

- CURRENT INFORMATION
  Essay and Chronology on the process of self-determination and restoration since the November 23, 1993, passage of the United States' official Apology for the overthrow of the Kingdom of Hawai'i in 1893, including information on the newly ratified Hawai'i Constitution.

- HISTORICAL INFORMATION
  Regarding Hawai'i's history from the time of European contact in 1778.

Plus related NEWS ARTICLES, GIF IMAGES, and a special feature on the "Canoe Plants" of Ancient Hawai'i that were brought to the islands by early polynesian voyagers. LINKS with other Hawai'i, Sovereignty, and Indigenous resources are featured. For more information contact: Executive Office, Nation of Hawai'i, P.O. Box 80, Waimanalo, Hawaii. Voice: 808/259-5049 or 259-7152.