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Our Mission

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 traditions. The Caucus is concerned with the law of all indigenous peoples.

--Adopted by Consensus, 1992 Business Meeting
Interested in American Law and Policy?

D.C. is Research Heaven

Washington, D.C. is the best place on earth to search for American Indian Law and Policy because it has such a rich treasure trove of documents collected over the years by federal government agencies. You can find original, primary documents collected by the United States government that are the envy of even the tribes. Some tribes have more of their heritage stored in D.C. than in their native organizations. Collected by donation, stealth, or purchase, or gathered when nobody else wanted them, federal archives, libraries, and museums proved the researcher with rich and varied material.

Even though I have lived in D.C. for only brief periods in my life, I feel drawn to the collections and have made many cross-country trips just to do research here. Here are my favorite D.C. collections, along with my personal research biases and tips to law librarians who are newly interested in the field.

The National Archives and Records Administration is at Constitution Avenue at 8th Street, NW 20480. Call for hours. Even though the main archives building is not customarily open to the public, you can request special viewing privileges. Go past the main entrance. Use the entrance at 8th Street and Pennsylvania Avenues, NW. Go past all the tourists trying to find their ancestry, and tell the attendants you want to do substantial, scholarly research. This will enable you to fill out a form—a special pass allowing you with permission to go to the bowels of the archives. This researcher identification card will speed your entrance into the archives. Another tip: There are archival specialists who are founts of knowledge in their particular filed. Archival specialists are not available on weekends. There is a specialist on Native Affairs who has helped me a great deal. Allow enough time for document retrieval from the stacks. If you are truly interested in researching, you need to take some vacation from your workplace. Tip number 3: consult the Guide to Records in the National Archives Relating to American Indian that was compiled by Edward E. Hill. This book is indispensable if you want to do research in the subject of American Native Peoples Affairs. Buy your own copy in the Archives bookstore. The book is really a roadmap of the major collections in National Archives Microfilm Resources for Research: A Comprehensive Catalog Review.

The Smithsonian Library of Ethnography, Constitution Avenue at 10th Street, NW 20565. This is a library that is not formally open to the public. It is housed in the Natural Museum of Natural History, Smithsonian Institution, Department of Anthropology at the Capitol Mall. It is not well known, though it is located in the extremely popular museum. The materials here were mostly collected when tribal peoples were considered artifacts to poke and prod. The irony is that it hold the best preserved collection of archival voice recording and descriptions of tribal ceremonies. To gain access here, it is best to write ahead for special permission to use the collection. In the past, when I have been harried, I have asked the guard to let me in the entrance, and then swore in writing to the attendant that I would carefully view the materials and use them only for research purposes. The pages will bring you any material requested. There are no open stacks. The famous Handbook of the North American Indians, William C. Sturtevant, General Editor, is published by the Department of Anthropology
within the Museum. A complete set is at the library. Also consult the Guide to the National Anthropological Archives, Smithsonian Institution, available for purchase at the museum.

The Bureau of Indian Affairs, 18th and C Streets, NW 20240. Go there especially to research contemporary documents—even legislative affairs. The Bureau is a subpart of the Department of the Interior. There is a museum on-site that includes maps, serial surveys, scientific modes, art work, artifacts, and documents on Native American land use as well as tribal customs. The site includes a museum, which is worth visiting as well as a non-kitsch Indian craft shop with goods made by Indian artisans. Aside from historical research the Bureau can supply you with up-to-date day press releases, and reports. At the Bureau, you can visit the policy makers who are in charge of collecting information as mandated by federal “CFR” regulations.

The Awaited National Museum of the American Indian Of course, the attraction that everyone is looking forward to is the next museum on the Mall, the Museum of the American Indian. The museum is scheduled to open in a new building in the year 2002. It will include objects, artifacts, and art work of the Native Peoples of the America. The core of the collection is now at the Museum of the American Indian in Manhattan, New York, “The Hayes Museum.” When the museum opens, it will be the largest museum in the Western World devoted to indigenous peoples. The museum will have a library. From our information see www.si.edu/cgi-bin/nav.cgi

The Library of Congress, 101 Independence Avenue, SE. Use the second street entrance for researching. Call me a bibliophile, but personally, I would rather spend time at the dusty, less used National Archives. Most people, however, especially love the comfortable, old-fashioned gigantic reading room at the library. A Library of Congress Resource Guide for the Study of Indian and Alaska Native Peoples of the United States is the essential resource in the area.

Records of the Iowa and Pawnee Nations

Caucus member Robin Kickingbird, wrote two successful grant requests which will be funded by the Archivist of the United States. The National Historical Publications and Records Commission recommended her grant requests.

The first was written on behalf of the Iowa Tribe of Oklahoma. It is a one-year grant of $49,011 for a project to arrange and describe records relating to the Iowa Tribal Business Committee.

The second grant is on behalf of the Pawnee Nation of Oklahoma. It is a one-year grant of $14,422 for a project to conduct a repository survey to identify photographs relating to the Pawnee Nation, obtain copies of appropriate photographs, and arrange and describe them for use at the nation’s archival facility.

Robin will administer the two grants. The U.S. Archivist hopes that the grants will results will be easily accessible records. Robin has already administered the creation of a repository survey of historic records held by the Pawnee Nation.

Why There Are No Property or Labor Law

Casebooks on Traditional Law

"The true Indian sets no price upon either his property or his labor. His generosity is limited only by his strength and ability. He regards it as an honor to be selected for a difficult or dangerous service, and would think it shameful to ask for any reward, saying rather: 'Let the person I serve express his thanks according to his own bringing up and his sense of honor.'"

Charles Alexander Eastman
(Ohiyesa) Santee Sioux
Business Law in Indian Country:
Tribal, Federal and State Law at the Crossroads

April Schwartz, Business Librarian at the University of Minnesota Law Library, has coordinated a thought provoking and timely program which highlights the enormous commerce between tribes and non-tribal entities. The program will take place on Wednesday, July 21 at the Ninety-Second Annual Meeting and Conference of the American Association of Law Libraries at the Washington Convention Center in Washington, D.C.

The program's speakers are: Charles Jakosa Esq., U.S. Department of Justice, Environmental and Natural Resources Division, Indian Resources Section; David Selden, National Indian Law Library/Native American Rights Fund; and Michael Wacker, Hamilton Quigley PLC. April will moderate.

Here is April's description of the program: Tribal economic development, including high profile, fast growing activities such as gaming, has resulted in tribes doing increasing amount of business inside and outside the reservation. In his program, the speakers will review legal developments affecting tribal business transactions and will discuss the best information sources for Indian business law.

Charles Jakosa will review federal laws that may govern transaction between Indian tribes and non-Indians. Michael Wacker will relate his experiences and strategies representing various tribes in their business dealings. David Selden will describe new and developing Indian business law materials and resources.

Attendees will learn the latest development in federal, state, and tribal business law, and how the laws affect what is involved in a tribal business transactions. Additionally, attendees will learn to better access Indian business law information sources, as well as general Indian primary and secondary sources.

The 1999 Business Meeting

The Caucus will meet on Monday, July 19, at 4:45 at the next American Association of Law Libraries General Meeting in Washington, D.C. Check Monday's AALL local meeting newspaper for the location. All are welcome.
Proposed Scholarship Campaign:
An Open Letter to the AALL Executive Board

To: The AALL Executive Board
From: The AALL Native Peoples Law Caucus
Date: July 13, 1998
Subject: AALL Scholarship Proposal

The AALL Native Peoples Law Caucus is a working group within the American Association of Law Libraries. It seeks to promote the collection, organization, management, delivery, use and preservation of the laws of Native Peoples, as well as to encourage service within this area. Since 1991, the Caucus has met yearly at each AALL General meeting. The Caucus produces a yearly newsletter with a widespread readership. It has sponsored many programs for the general membership.

Last year, our caucus recognized that there is a real need for law librarians to understand the working of the 400 plus tribal governments within the United States, and to know how to obtain the mass of laws generated by these sovereign nations. The laws of the tribes not only impact their own internal activities; tribal laws profoundly influence local, state, federal, and even international laws, policies, programs, and events. As the established, national association of law librarians, our organization could work to strengthen attempts to apply our professional knowledge to this area of law.

To this end and to help alleviate the very small representation of tribal members among our ranks, we would like to work to establish a scholarship. This scholarship would be awarded only to members of a federal or state recognized tribe. Acceptable candidates would be those who have a letter of recommendation from a tribal official and who give an explicit intent to work in a library or equivalent setting with legal materials. We also respectfully encourage the Board to direct otherwise unencumbered scholarship money to meet this goal and pledge our support in this endeavor.

We further ask the Board to support a promotional, modest campaign run by the Caucus. In this endeavor, the Caucus would advertise AALL scholarships, especially, the George Strait Minority Scholarship, to potential law librarians who are American Indians. We ask the board to earmark $100.00 each year for five years to fund a letter writing and internet campaign which will involve communication to tribal colleges, the American Indian Library Association, and other groups that we identify as the best organizations to provoke interest among potential scholarship candidates.

Thank you for your consideration. Caucus members would be happy to answer any questions you may have concerning these proposed matters.

By Consensus of the Caucus Steering Committee:

Lorraine Lester, Associate Professor and Library for Collection Management, University of New Mexico Law Library; Maria Protti, Deputy City Attorney and Librarian, San Francisco City Attorney’s Office; Jeanne M. Rubin, President, National Directory of Process Servers, Inc. and Counsel to the Ute Nation; and Claire Stuckey, Head of Cataloging, University of Minnesota Law Library.
A Case Study of Nomenclature and Place:

An Appeal before the U.S. Board on Geographic Names

By Maria Protti

Introduction

In July 1997, I petitioned the United States government to formally change the name of a lake owned by the Department of Forestry from "Dead Indian Lake." My impetus and the resulting activity is a classic illustration of issues and procedures underlying the law of official place nomenclature.

Dead Indian Lake

The petition is to change the name of an unnatural reservoir entirely created by the government in the early 1960's. The lake is owned by the federal government on land controlled by the U.S. Department of Forestry. It is at the Black Kettle National Grasslands, route 1 Box 55B, Cheyenne, OK 73628 in Eastern Oklahoma. Because the lake is so new, there is no mention of the lake in the book Oklahoma Place Names, University of Oklahoma Press.

I wanted to change the name of the Lake because I believe the current name is derogatory and evoked a strong, negative connotation among American Indian Peoples (especially among my Cheyenne and Arapaho friends). I asked the Oklahoma Native Cultural Society for a recommended name and they picked the name "Black Kettle Lake," to honor the Cheyenne Chief. By nature I am conservative and normally abhor "politically correct" assertions of proper names because I recognize that a name for one generation or culture can be insulting or not to another. Or that well-meaning people can be blind to the significance of awful names. However, the name "Dead Indian" evokes such a highly charged response from those knowledgeable about the treatment of Native Americans in American history that it should be changed. The name recalls the killing that happened very near to the Lake - a massacre in which 103 Southern Cheyenne, mostly the elderly, woman, and children were killed by George Custer's seventh Calvary. Any member of the Cheyenne Nation feels the sting of the Washita River killings. In 1865, Black Kettle, a peaceful Cheyenne Chief, agreed to the Medicine Lodge Treaty which created a formal reservation in the area the U.S. seized from the Southern Cheyenne in Northwestern Indian Territory. In 1868, Black Kettle settled his camp along the Washita River near the present sit of Dead Indian Lake. Black Kettle had asked for protection for the camp that had no warriors. He flew a U.S. flag and a white flag. Still Custer attached the defensive camp. The Washita River killings are infamous, and elicited the wrath of Indians toward Custer. It is considered the antecedent of the Battle at Wounded Knee. The phrase "Dead Indian" disrespects the deceased.
The Geographic Name Board

The Geographic Name Board will decide the outcome of the petition. The Board governs the official 42,000 names currently used for places, areas, and major natural features of the land. Only official lands can appear on Federal maps, charts, and other publications. Public Law 80-242 provides that name changes must be approved by the Board.

The staff of the Board, after receiving the petition researched the origins of the name of the lake, prepared a case brief, and placed the matter on a docket. The Board will apply its own Principles, Policies, and Procedures in making its’ decision: Three policies especially apply here. Policy section I states:

The U.S. Board on Geographic Names does not encourage changes in official geographic names. It will not initiate changes in domestic geographic names except in rare cases such as those involving certain derogatory names and name duplications. All name change proposals are evaluated in cooperation with State geographic name authorities, Federal, State, and tribal agencies, local governments, other authoritative bodies, and the public.”

Policy V concerns derogatory names:

In the case of domestic geographic names, the U.S. Board on Geographic Names will not adopt a name for Federal usage that is determined by the Board to be derogatory to a particular racial or ethnic group, gender, or religious group. Decisions of the Board, made under the directions of these policies as published by the Department of the Interior.

“The Only Good Indian is a Dead Indian”

To further identify the negative offensiveness of the phrase “Dead Indian”, in October 1998, I made a presentation to the Western States Conference on Geographic Names held in Cody, Wyoming. My thesis is was that the name of the Lake mirrored and supported the popular American antedote that “The Only Good Indian is a Dead Indian.” The proverbial stereotype is as old as the United States and used as early as 1766. (De Proverbio Vol. 1995 “The Only Good Indian is a Dead Indian” by Wolfgang Mieder) It was used on the floor of Congress inn 1868. (The Congressional Globe: Containing the Debates and Proceedings of the Second Session of the Fortieth Congress) Here, it was used as a as a slur, and used to support an argument for the extermination of Indian people.

General Custer’s boss, General Sheridan, restated the proverb shortly after Custer’s fight at Washita River in 1869! (Edward S. Ellis, The History of Our Country: From the Discovery of America to the Present Time Cincinnati, Ohio: James Brothers, 1900, p. 1483). Even a President of the United States, Theodore Roosevelt, included in the saying in an 1886 speech. (Hagedorn, Roosevelt in the Bad Lands, 1921) There is not enough space to detail the entire history here; however, it should be noted that in modern fiction, it has evolved into “The only good Jap is a dead Jap.” (Richard Butler, A Blood-Red Sun at Noon Sydney: William Collins, 1980, p. 207.) And, “The only good nigger is a dead nigger.” (Quoted from Bernard Shaw Plays Political London: Penguin Books, 1986, pp, 144-146) This is quite important to the understanding of the degree of offensiveness of the name “Dead Indian” as the official Guidelines to Policy 5.
Derogatory Names of the Principles, Policies, and Procedures: of the Board on Geographic Names states that: "The Board will not adopt a name proposal that includes the word ‘Jap’ or the word ‘Nigger’ whether or not it is in current local usage and regardless of by whom proposed."

Public Commentary

The submitted petition generated much unanticipated attention. The exit signs on the nearest freeway, along with the signs at the lake, stating “Dead Indian Lake” were removed by the U.S. Forestry Service. After one citizen complained of a lack of time to comment and the signs were therefore replaced albeit with coverings.

The Oklahoma Geographic Name Board, a separate but advisory corollary to the National Board, had solicited commentary from local governmental entities and the Roger Mills Chamber of Commerce almost after receipt of my petition.

The U.S. Forestry Service, along with the former Senator who named the lake, were in favor change the name. The local Country Commission was not. Four local petitions, signed by over a thousand people, highlighted difference. One petition was in favor, one was opposed. Two petitions with less signatures were signed by those who “have Indian blood”—one was in favor, and one was opposed.

The proposed name change generated numerous letter to newspaper editors and a lead article in the state newspaper (See, fore example “A Derogatory Name or a Rewriting of History” Daily Oklahoman 08/08/1988) as well as an article in the Associated Press. Much of the controversy went beyond my original petition—that is it centered on what the new name of the lake should be and whether the long, privately owned “Dead Indian Creek” name should be named.

In June of 1999, I received another of several letters from the Oklahoma Geographic Name Board. The Board could make recommendations because they sought perceptions of people in the locality of the Lake, but the decision is the responsibility of the National Board. The Oklahoma Board concluded that the name “Dead Indian is derogatory, but recognized that not all commentators agreed: Many agencies and citizens support the name change on the grounds that the term “Dead Indian” is offensive to the American Indian people. Two letters in particular stand out. (1) The Oklahoma Indian Commission supports “efforts to rid the State of Oklahoma of derogatory references to American Indian people.” (2) The Cheyenne-Arapaho Tribes of Oklahoma provided a resolution supporting the name change, in part stating, the name “Dead Indian” is offensive to Native American Peoples, because it dishonors the dead and the sacred ground in which they rest.” On the other hand, petitions signed by many citizens with ties to Roger Mills County and the area indicate a strong opposition to changing the named of Dead Indian Lake and Dead Indian Creek. Their opposition is based on local historical accounts. Many concerned citizens wrote of early settlers finding Indian bodies in the trees along the stream. The name Dead Indian Creek was applied to represent the ceremonial burial ground and was not “named as any insult to the native American.”

When I first petition the name change, I included mention of that fact that some attributed the name “Dead Indian” to an undocumented account of pioneers coming across funeral pyres. The tribes of the Plains used funeral pyres all over the Mid-West,
but there are no accounts of the pyres at Dead Indian Lake. In fact, the two pyres that were documents in Oklahoma, were mover, body and all, to the Smithsonian Museum in Washington, D.C. Even if it were true that the Lake (created in the early 1960’s) were named after deceased men or women, the phrase retains an awkward, negative image. (See the wood carving illustration shown here and reproduced from the files of the San Francisco Main Public Library.)

Conclusion

The petition to change the name of Dead Indian Lake” is tied to historical events both national and local and is encompassed in the law of place names. There is a body of law on the subject of naming, and though not commonly known, is established and active. There is a National Geographic Names Board that decides and hears cases on the subject. The law of place names is inherent to the subject of Native Peoples Law and Policy because so many place names in the United States were named in a tribal language or after tribal peoples. The outcome of the petition, unlike most petitions to change the name of a land formation, is the subject of much press and attention. I make no prediction of the result.

INDIAN BURIAL-TREE NEAR FORT LARAMIE.
Book Review: Encyclopedia of American Indian Civil Rights


Most students of American Law can readily recite the landmark cases leading to the recognition of civil rights for African-Americans: Plessey v. Ferguson, Brown v. Board of Education, the Dred Scott cases. The cases establishing American Indian civil rights are also important but not easily remembered.

The editors of this encyclopedia mean to turn attention to and underscore the much forgotten laws and opinions dealing with the movement toward the recognition of the rights of Indian Peoples within the United States. This book is not a history; it gives episodic synopses of major landmarks in the struggles of tribal peoples to gain their constitutionally mandated but not always recognized civil rights. Along with cases, important statutes, people and events are covered. For example, there are entries for the "Sand Creek Massacre" and the grand "Environmental Movement", as well as sociological concepts such as "Manifest Destiny."

There are 25 authors, all academics. The work reminds me of a mini-Encyclopedia of the Supreme Court-- with much explanation for a scholarly audience. Like that famous and well-revered Encyclopedia, here at the end of each entry is a listing of suggested readings. The readings are not a good mix of scholarly articles and works respecting tribal traditional views of policy and history. Traditional views are not cited at all. For example, none of Black Elk's narrative or visionary tales are cited under an entry for "Black Elk." Instead, an academic book, Michael Steltenkamp's Black Elk: Holy Man of the Oglala, 1993, is cited.

Many people contributed to the extensive entries in this book. The lead editor, a non-Indian has lived on an Indian reservation and has done extensive research at Sam Houston State University in Texas.

Despite the episodic nature of the entries, a historical introduction outlines newcomers to the classic divisions of Native American law and policy: The Age of Sovereignty, 1789-1870, The Age of Assimilation, 1871-1934, the Indian New Deal 1934-1945, Assimilation Revisited 1945-1969, and the Age of Self-determination 1969-to the present. Included is a thirteen page listing of major landmarks in the history of American Indian civil rights and their associated years.

There is an appendix listing the major court cases in the subjects of citizenship, civil jurisdiction, civil liberties, criminal jurisdiction, fishing and hunting rights, gaming operations, land title and compensation, religious freedom, taxation, tribal sovereignty, trust relationship and water rights. There is an extensive select bibliography. A detailed index shows subjects, main entries, and personal headings. This encyclopedia would be a useful addition to any reference collection that seeks to cover civil liberties and human rights.
Researching Indigenous Peoples Rights under International Law

Caucus member, Steven Perkins, has revised and amended his well-received Guide to Researching Indigenous Peoples Rights under International Law. The scholarly guide was first prepared for a presentation at the 1992 Annual Meeting of the American Association of Law Libraries. The guide is now thirty pages and can be found at: www.rci.rutgers.edu/~sperkins/ipr2.html. It covers international legal documents as well as specific geographic areas and topics like apartheid, cultural resources and self-determination.

Steven encourages anyone with suggestions for additions to the Guide to contact him at Sperkins@andromeda.rutgers.edu. Steven is the Head of User Services at the Rutgers University Law School Library.


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