

I am a Man: Chief Standing Bear, The First Native American Legally Declared a Human Being

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PROCESS PAPER

I discovered my topic by listening to a podcast titled *Constitutional* by The Washington Post. One episode, "Ancestry," discussed Chief Standing Bear's debate against the U.S. government regarding whether or not Indians were human beings. I was both fascinated and moved by the case, as I couldn't fathom how Native Americans were not legally considered human in the annals of American history.

I started my research by familiarizing myself with the case through visual mediums. I viewed Mary Kathryn Nagle's play *Waaxe's Law* and Joe Starita's TEDx talk "Chief Standing Bear's Journey for Justice." I decided to interview these authors with some questions I had about their works, specifically regarding the aftermath of the Standing Bear vs. Crook decision. The invaluable information about Standing Bear's impact I gathered from these interviews prompted me to conduct another one with Eric Buffalohead, an enrolled member of Standing Bear's Ponca tribe and a professor of American Indian Studies at Augsburg College. Dr. Buffalohead directed me to the film "The Trial of Standing Bear," which helped me uncover more about Standing Bear and the Ponca tribe's background. I then delved into more scholarly research by reading primary sources such as Thomas Tibbles's multiple books on his experience working with Standing Bear and Judge Elmer Dundy's published opinion on Standing Bear v. Crook. A helpful primary source I found was the "Thomas Henry Tibbles Papers" collection from the Smithsonian Institution Research Center, which included newspaper articles, letters, legal filings, and photos in relation to the Standing Bear v. Crook case.

I chose to write a paper because I knew this particular case had an extensive background and a comprehensive list of events that occurred, so I felt drawn to the high word count. Furthermore, because the case mainly incorporated verbal transactions and letters, I didn't think presenting it required visual media but, instead, carefully crafted words.

NHD defines debates as "formal or informal meetings where people argue opposing views." Standing Bear v. Crook was a formal, legal debate between Standing Bear and the U.S. Government (through their respective representatives/lawyers). The debate was on whether Standing Bear should be granted the right of habeas corpus or not. Diplomacy involves communicating and negotiating with people or nations to come to a conclusion without violence. The case exhibited diplomacy because representatives of each nation civilly expressed their perspectives on the complex issue of Indians personhood through diplomatic measures (a legal debate) instead of sparking just another violent American-Indian war. Furthermore, within this diplomatic debate, Chief Standing Bear relayed one of the most eloquent and memorable lines of diplomacy recorded in his courtroom speech.

Standing Bear v. Crook was successful because it granted Standing Bear and his followers habeas corpus,

provided them their homeland, and changed the perspectives of countless non-Indians. Standing Bear v. Crook was unsuccessful in that it led to the Dawes Act of 1887, a disaster for Indian reform. Furthermore, it did not garner immediate effects for the legal treatment of Indians.

Native Americans have faced incredible adversity at the hands of the United States federal government. Throughout the 19th century, American leaders seized indigenous lands, broke countless treaties, and subjugated the Indian population. But no act of moral subordination can compare to the Indian dehumanization, the belief that Indians were not human beings, that gathered steam among white Americans. In 1879, Chief Standing Bear of the Ponca tribe challenged this narrative in a legal case, Standing Bear v. Crook, which debated the question: Is an Indian a human being? Without resorting to military fronts, Standing Bear and the United States government engaged in diplomatic discourse in the courtroom, which allowed Standing Bear to pave the way for the acquisition of more legal rights for Indians, who, despite decades of difficulties and discrimination, were ultimately granted citizenship in 1924.

Native American Dehumanization

"We hold these truths to be self-evident, that all men are created equal...." This phrase is the most celebrated statement in the United States of America's Declaration of Independence. Yet just a few lines below, Founding Father Thomas Jefferson refers to Native Americans as "merciless Indian Savages, whose known rule of warfare, is undistinguished destruction of all ages, sexes and conditions." As marked in the roots of U.S. ideology, Native Americans were treated as utterly disparate from the American population. At first, American leaders defined the status of Indians equivalent to "a foreign nation" in the constitution; however, in 1831, Chief Justice John Marshall declared them unworthy of being treated as a sovereign entity, designating the entire native American population to the United States a "ward to his guardian."¹ For decades, Indians were denied citizenship and fundamental rights

¹ The Cherokee Nation v. The State of Georgia, 30 U.S. (Jan. 1831). [https://www.loc.gov/item/usrep030001/#:~:text=Periodical%20U.S.%20Reports%3A%20Cherokee%20Nation,1%20\(1831\).](https://www.loc.gov/item/usrep030001/#:~:text=Periodical%20U.S.%20Reports%3A%20Cherokee%20Nation,1%20(1831).)

based on the premise that they were uncivilized and unintelligent.² Native Americans were consistently labeled "brutal," "bloody minded," and "savages" by American leaders.³ When Chief Standing Bear of the Ponca tribe filed for a writ of habeas corpus in 1879, Native Americans had yet to be legally defined human beings under the law.⁴

The Ponca Tribe's Eviction

Standing Bear, born circa 1829, was chief of the Ponca tribe's Bear Clan, a

semi-nomadic group of Native Americans who lived primarily in the Niobrara River Valley.⁵ For much of their existence, the Ponca maintained a peaceful relationship with the U.S. government and allied with them in the War of 1812.⁶ In 1856, however, the Ponca started to be attacked by other tribes at buffalo hunts and invaded by white settlers who used their land.⁷ Consequently, the Ponca sought support from the U.S. Government in 1858, offering the U.S. 2.3 million acres of land to secure possession of their remaining territory.⁸

However, in 1868, the government signed the Treaty of Fort Laramie, which mistakenly marked the remaining Ponca's land as part of the Great Sioux Reservation.⁹ The Ponca were now considered trespassers, inciting

violent incursions by the Sioux.¹⁰ For seven years thereafter, the U.S. government broke its guarantees and offered the Ponca no

² Rolling, Willard Hughes. "Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965." *Nevada Law Journal* 5, no. 1 (2004). <https://scholars.law.unlv.edu/nlj/vol5/iss1/8/>.

³ Dippie, Brian W. "American Indians: The Image of the Indian." National Humanities Center. <http://nationalhumanitiescenter.org/tserve/nattrans/ntecoindian/essays/indimage.htm>.

⁴ James E. O'Neill v. Eldon Morse, 385 Supreme Court of Michigan (Supreme Court of Michigan 1971).

⁵ "Chief Standing Bear." National Park Service. Last modified September 1, 2021. <https://www.nps.gov/mnrr/learn/historyculture/standingbear.htm>.

⁶ Ibid.

⁷ "Ponca History." Ponca Tribe of Indians of Oklahoma. <http://www.ponca.com/ponca-history>.

⁸ Ibid.

⁹ Treaty of Fort Laramie, S. Treaty Doc. (Apr. 29, 1868).

¹⁰ Ibid.

assistance.¹¹ The government addressed this tragic mistake by deciding that the Ponca should move to the Indian Territory in Oklahoma.¹² In 1876, Kemble prompted the Chiefs to visit the new land, promising they could return home should they not find it suitable. Standing Bear's account was as follows: "The land they showed us was stony, and I did not believe we could make a living on it. I was afraid my people would get sick and die."¹³ The Chiefs refused the offer and returned to the Niobrara River; however, upon their arrival, they discovered that the government had issued a forced removal to Oklahoma.¹⁴

The Ponca found the Indian territory dry and plagued with malaria-carrying mosquitoes.¹⁵ By the following spring, nearly a third of the Ponca tribe had died from malaria and starvation, including Standing Bear's son, Bear Shield, who requested that he be buried in his Nebraska homeland.¹⁶ Standing Bear lamented, "I was not a free man. I was taken by force from my own country to a strange land, and was a captive."¹⁷ Thus, on January 20th, 1879, Standing Bear decided to leave the reservation, taking with him the bones of his son and twenty-nine other members of the Bear clan.¹⁸ However, on March 27th, Brigadier

¹¹ "Chief Standing Bear." U.S. Courts Library 8th Circuit. <http://www.lb8.uscourts.gov/pubsandservices/histsociety/neb-chiefstandingbear-booklet.pdf>.

¹² Tibbles, Thomas Henry. *The Ponca chiefs: an Indian's Attempt to Appeal from the Tomahawk to the Courts : with Some Suggestions Towards a Solution of the Indian Question*. N.p.: Boston: Lockwood, Brooks, and Company, 1879. Hollis Harvard.; Hutchison, Chace. "Standing Bear and the Ponca: A Forgotten Legacy." *International Social Science Review* 96, no. 1 (2020). <https://www.proquest.com/docview/2408835329>.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Bureau of Indian Affairs United States Department of the Interior. *Annual Report of the Secretary of the Interior on The Operations of the Department for the Fiscal Year Ended June 30, 1877*. By A. E. Howard. N.p.: Government Printing Office, 1877.

¹⁶ Clark, Stanley. "Ponca Publicity." *The Mississippi Valley Historical Review* 29, no. 4 (March 1943): 495. <https://doi.org/10.2307/1916600>.

¹⁷ Tibbles, Thomas Henry. *The Ponca chiefs: an Indian's Attempt to Appeal from the Tomahawk to the Courts : with Some Suggestions Towards a Solution of the Indian Question*. N.p.: Boston: Lockwood, Brooks, and Company, 1879. Hollis Harvard.; Hutchison, Chace. "Standing Bear and the Ponca: A Forgotten Legacy."

International Social Science Review 96, no. 1 (2020). <https://www.proquest.com/docview/2408835329>.

¹⁸ Lake, James A., Sr. "Standing Bear! Who?" *Nebraska Law Review* 60, no. 3 (1981). <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=2032&context=nlr>.

General George Crook arrested the Ponca amid their journey to Niobrara.¹⁹ Crook felt sympathetic to the Ponca, who were frostbitten and emaciated, but his superior demanded the group be detained in Fort Omaha.²⁰ By this point, Thomas Tibbles, assistant editor of the *Omaha Daily Herald*, had heard about Crook's arrest of the tribe. Tibbles, afflicted by the Ponca's plight, decided to take the Ponca's grievances to the federal court. Standing Bear assumed the plaintiff's role, and General Crook volunteered to be the defendant, represented by District Attorney Genio Madison Lambertson.²¹ Tibbles contacted lawyer John L. Webster for assistance in suing the court, who replied to Tibbles' appeal, "This is a question of vast importance... [Indians] have always been treated as 'wards,' as incapable of making contracts, etc., but it will do no harm to try."²² Webster, along with another lawyer, A. J. Poppleton, decided to author a petition for a writ of habeas corpus (the right to question a person's unlawful detainment) and mailed it to Judge Elmer Scipio Dundy of the United States District Court for the District of Nebraska.²³ Judge Dundy agreed to hear the case and issued the writ on April 18th, 1879.²⁴

Standing Bear v. Crook- The Formal Debate Begins

Proceedings began on May 1st, 1879, in the federal court of Omaha. The courtroom was packed with lawyers and white community members.²⁵ Webster and Poppleton set out to argue that Standing Bear should be granted the right of habeas corpus, the right to sue the court for unlawful detainment. Lambertson, representing the United States, would argue the contrary. A secondary issue also concerned whether Standing Bear had been evicted illegally by the U.S. government, but would only be posed should Standing Bear hold the right to habeas corpus.²⁶

Webster and Poppleton argued that even immigrants and foreign citizens could receive habeas corpus, and thus citizenship was not a requirement.²⁷ In fact, as stated in the Constitution, "all persons...born in the United States" could appear before the court, and Chief Standing Bear fit this category.²⁸ They asserted that all Native Americans satisfied the fundamental and biological characteristics of a human being.²⁹

Lambertson rebutted this argument by stating that Native Americans were not considered human due to their uncivilized nature.³⁰ He referred directly to the language of the Declaration of Independence, stating that the phrase "merciless Indian savages" rendered

¹⁹ Crook, George. "Standing Bear Vs. Crook: Testimonies: 1879." April 11, 1879. https://edan.si.edu/slideshow/viewer/?damspath=/Public_Sets/NMAI/NMAI-AO-Assets-and-Operations/NMAI-AO-Archives/NMAI_AC066/Box_002/Folder_11.

²⁰ Tibbles, Thomas Henry. *The Ponca chiefs: An Indian's Attempt to Appeal from the Tomahawk to the Courts : with Some Suggestions Towards a Solution of the Indian Question*. N.p.: Boston: Lockwood, Brooks, and Company, 1879. Hollis Harvard.

²¹ Ibid.

²² Ibid.

²³ Poppleton, A. J., and John L. Webster. *Petition for Writ of Habeas Corpus*. May 13, 1879. 7403552. Records of District Courts of the United States, 1685 -2009. National Archives Catalog.

²⁴ Arnold, James R., and Roberta Wiener. "Standing Bear v. Crook." In *The Encyclopedia of North American Indian Wars, 1607–1890: A Political, Social, and Military History*, edited by Spencer C. Tucker. Santa Barbara,

CF: ABC-CLIO, 2011.

²⁵ "Chief Standing Bear." U.S. Courts Library 8th Circuit. <http://www.lb8.uscourts.gov/pubsandservices/histsociety/neb-chiefstandingbear-booklet.pdf>.

²⁶ Hutchison, Chace. "Standing Bear and the Ponca: A Forgotten Legacy." *International Social Science Review* 96, no. 1 (2020). <https://www.proquest.com/docview/2408835329>.

²⁷ Thomas Henry Tibbles Papers - Webster, John L. "Standing Bear Vs. Crook: Argument of J.L. Webster, 1879." 1879.

https://edan.si.edu/slideshow/viewer/?damspath=/Public_Sets/NMAI/NMAI-AO-Assets-and-Operations/NMAI-AO-Archives/NMAI_AC066/Box_002/Folder_09.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Lambertson, Genio Madison. "Thomas Henry Tibbles Papers - Standing Bear Vs. Crook: Argument of G.M. Lambertson, 1879." https://edan.si.edu/transcription/pdf_files/9755.pdf.

Native Americans fundamentally "contradistinguished" from inhabitants of America. ³¹ Lambertson noted that Native Americans were not their own people but "wards of the government" and thus not eligible to sue the court.³² In rebuttal, Standing Bear's lawyers argued that by virtue of common sense and plain decency, Standing Bear was a person.³³

Similar arguments persisted over two days. When the second primary issue was brought up, concerning Standing Bear's immediate fate, Webster and Poppleton stated that all persons born in the United States were granted "equal protection of the laws" under the 14th amendment of the U.S. Constitution.³⁴ They also argued that the Ponca's homeland in the Niobrara River Valley had been taken unlawfully, as it contradicted agreements made in 1858, and therefore the Ponca had justification to return to their homeland.³⁵ Lambertson and Standing Bear's lawyers also communicated directly during cross-examinations, asking and answering questions about Standing Bear's journey and arrest.³⁶ Lambertson continuously stated that because Standing Bear was not a person, he had no right to question the detainment.³⁷

As the long arguments came to a close, Judge Dundy allowed Standing Bear to make an unofficial representation. For the first time in history, a Native American rose to address a court. Standing Bear raised his right hand and extended it toward the front of the court. He spoke, "...That hand is not the color of yours, but if I prick it, the blood will flow, and I shall

³¹ Ibid.

³² Ibid.

³³ Hutchison, Chace. "Standing Bear and the Ponca: A Forgotten Legacy." *International Social Science Review* 96, no. 1 (2020). <https://www.proquest.com/docview/2408835329>.

³⁴ Poppleton, A. J. "Thomas Henry Tibbles Papers- Standing Bear Vs. Crook: Argument of A. J. Poppleton." 1879.

https://edan.si.edu/slideshow/viewer/?damspath=/Public_Sets/NMAI/NMAI-AO-Assets-and-Operations/NMAI-AO-Archives/NMAI_AC066/Box_002/Folder_08.

³⁵ Ibid.

³⁶ Tibbles, Thomas Henry. *Standing Bear and the Ponca Chiefs*. N.p.: Bison Books, 1972.

³⁷ Ibid.

feel pain. The blood is of the same color as yours. God made me, and I am a Man. The same God made us both..."³⁸

The court fell silent; tears strolled down Judge Dundy's face, and George Crook, too, covered his face with his hands.³⁹ Judge Dundy adjourned the trial with a nod to the marshal and closed the debate.⁴⁰

Judge Dundy's Opinion

Ten days later, on May 12th, 1879, Judge Dundy released his judgment.⁴¹ In it, he ruled "that an Indian is a 'person' within the meaning of the laws of the United States, and has, therefore, the right to sue out a writ of habeas corpus in a federal court."⁴² He stated that he had consulted Webster's dictionary, which described a person as "'a living soul; a self-conscious being'".⁴³ Judge Dundy believed "this [was] comprehensive enough, it would seem, to include even an Indian."⁴⁴ He also referred to the Revised Statutes of the United States, which deemed that the word 'person' includes 'copartnerships and corporations'".⁴⁵ He stated that it was "quite evident that the comprehensive language used in this section is intended to apply to all mankind."⁴⁶ He also ruled that the Ponca had been detained

³⁸ Tibbles, Thomas Henry. *Buckskin and Blanket Days: Memoirs of a Friend of the Indians Written in 1905*. Edited by Theodora Bates Cogswell. N.p.: Bison Books, 1957.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Dando-Collins, Stephen. *Standing Bear Is a Person: The True Story of a Native American's Quest for Justice*. N.p.: Da Capo Press, 2005.

⁴² United States ex Rel. Standing Bear v. Crook, 5 John F. Dillon (United States Circuit Court, D. Nebraska May 1, 1879).

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

unlawfully, as according to the treaty signed in 1858, Niobrara River Valley was rightfully their land.⁴⁷

The Standing Bear v. Crook debate was an act of diplomacy between Standing Bear, a Native American, and the United States government. Admittedly, the United States's perspective that Indians were non-human merely abided by precedents of Native American characterization, such as the Declaration of Independence. Instead of using violence to discuss both perspectives, however, such as in American-Indian wars from the 1600s to the late 19th century, the two parties civilly discussed the status of Native Americans in a courtroom. As Joe Starita states in *The Constitutional*, Standing Bear was able to communicate his nation's struggle to be treated with equality "without ever firing a shot from his Winchester, without ever plucking an arrow from his quiver, and without ever unsheathing his hunting knife."⁴⁸

Successes, Failures, and Consequences

Judge Dundy's ruling permitted Standing Bear and his followers to be released, and Standing Bear returned to

Niobrara to bury Bear Shield.⁴⁹ Congress ordered that all Poncas should be given land in either the Indian Territory or their old reservation and appropriated \$165,000 to agricultural equipment and education resources for the Ponca.⁵⁰ Thus, Standing

⁴⁷ Ibid.

⁴⁸ *The Constitutional*. Season 1, episode 3, "Ancestry." Narrated by Lillian Cunningham. Produced by Ted Muldoon. Aired August 7, 2017, on The Washington Post.

⁴⁹ Starita, Joe. "The Case of Standing Bear: Establishing Personhood under the Law." Review of a Court produced by University of Nebraska Lincoln. *Court Review: The Journal of the American Judges Association* 45, nos.1-2, 4-11 (2009). Accessed 2009.

<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1289&context=ajacourtreview>.

⁵⁰ Lake, James A., Sr. "Standing Bear! Who?" *Nebraska Law Review* 60, no. 3 (1981). <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=2032&context=nlr>.

Bear was successful in his quest to help his people, as his tribe received reparation for its mistreatment, and he was able to fulfill his deceased son's wish.

The most notable success of Standing Bear v. Crook was the legal tool of habeas corpus newly given to Native Americans. For the first time in the 103-year history of the United States, Native Americans became legally recognized as human under the law with "the same constitutional rights and protections as the more fortunate white race", in the words of Judge Dundy.⁵¹ Thus, Standing Bear v. Crook marked the first step of the journey to Native American citizenship in America. Given habeas corpus, Native Americans now had much the same rights as foreign nationals and could sue in court in defense of other rights. The case ameliorated Native American legal status; without this debate of fundamental personhood, the fact of simply existing as a human being, Indians could never have defeated historic persecution to be granted rights and citizenship.

Moreover, Standing Bear v. Crook amassed public support from around the country, which had generally despised the Native American race before the case. Within days of the decision, the Omaha Herald noted that "Judge Dundy's decision in the Ponca case is thundering through the press and awakening the people to a new sense of its importance."⁵² Various newspapers around the nation wrote of Standing Bear's accomplishments with the utmost respect. The Russellville Democrat, for instance, reported, "Chief Standing Bear... is a man of splendid natural abilities, who is a man of splendid natural abilities, making a strong and eloquent argument on behalf of his oppressed people."⁵³ The case also caught the attention of literary influencers who, inspired by Standing Bear, publicized the fight for

⁵¹ United States ex Rel. Standing Bear v. Crook, 5 John F. Dillon (United States Circuit Court, D. Nebraska May 1, 1879).

⁵² "The Decision." Nebraska Public Media. <http://netwagtaildev.unl.edu/nebstudies/en/1875-1899/the-trial-of-standing-bear/the-decision/>.

⁵³ Battenfield, J. E. "A Highly Important Decision." *The Russellville Democrat* (AR), May 22, 1887.

Native American civil rights. After his victory, Standing Bear toured the United States to speak of his story.⁵⁴ Upon hearing Standing Bear's testimony, one poet, Helen Hunt Jackson, grew passionately indignant over the mistreatment of the Ponca tribe. "I cannot think of anything else from night to morning," she wrote in a letter to a friend in 1880, "A fire has been kindled within me which will never go out."⁵⁵ Chief Standing Bear was the core inspiration for Jackson's literary works, such as her widely acclaimed book *A Century of Dishonor*, which broadcasted the need for Native American policy reform and even encouraged readers to

petition their government for better treatment of the Indians.⁵⁶

However, Chief Standing Bear's story led to the Dawes Act of 1887, an event notorious for dismantling Native American communal ownership of land. Senator Henry L. Dawes attended one of Standing Bear's lectures in Boston and was so moved by the case that he decided to join the Senate Indian Affairs Committee to partake in Indian rights activism.⁵⁷ Dawes created the General Allotment Act believing it would free Indians from detention and relocation. He assigned land to subdivisions of Native American tribes. This act wreaked havoc on Indians, as they could not adjust to the sudden change in agriculture with limited resources.⁵⁸ Moreover, between 1887 and 1934, Native Americans "lost control of about 100 million acres of land" due to surpluses made available to non-Indians.⁵⁹

⁵⁴ Porter, T. R. "How the Indian Finally Became a Man." *The Evening* (Washington, D.C.), January 31, 1909. Library of Congress.

⁵⁵ Jackson, Helen Hunt. Letter to Charles Dudley Warner, December 21, 1879. Warner Collection.

⁵⁶ Jackson, Helen Hunt. *A Century of Dishonor: A Sketch of the United States Government's Dealings with Some of the Indian Tribes*. N.p.: University of Oklahoma Press, 1881.; Mathes, Valerie Sherer. "Helen Hunt Jackson and the Campaign for Ponca Restitution, 1880-1881." South Dakota State Historical Society. Published 1987. <https://www.sdhspress.com/journal/south-dakota-history-17-1/helen-hunt-jackson-and-the-campaign-for-ponca-restitution-1880-1881/vol-17-no-1-helen-hunt-jackson-and-the-campaign-for-ponca-restitution-1880-1881.pdf>.

⁵⁷ Smith, Dennis J. "Trial of Standing Bear." Encyclopedia of the Great Plains. <http://plainshumanities.unl.edu/encyclopedia/doc/egp.pd.053>.

⁵⁸ Carlson, Leonard A. "The Dawes Act and the Decline of Indian Farming." *The Journal of Economic History* 38, no. 1 (March 1978). <https://doi.org/10.1017/S0022050700112197>.

⁵⁹ Schultz, Jeffrey D., Andrew L. Aoki, Kerry L. Haynie, and Anne M. McCulloch. *Encyclopedia of Minorities in American Politics: Hispanic Americans and Native Americans*. Phoenix, Ariz.: Oryx Press, 2000.

Furthermore, Standing Bear's case did not incite national change. The federal government decided not to appeal Judge Dundy's rulings to the U.S. Supreme court as they feared it could broaden habeas corpus rights to the entire nation.⁶⁰ Indian Agent William Whiteman made clear how he treated Judge Dundy's decision in his letter to General Philip Sheridan: "The release under writ of habeas corpus of the Poncas in Nebraska does not apply to any other than that specific case."⁶¹ This proved to be a shrewd legal maneuver as Standing Bear v. Crook remained a localized decision. The Standing Bear decision was not used much as a court precedent, as few legal challenges to the government followed. Thus, although the proclamation of Indians being human served as a stepping stone for more Indian civil rights, citizenship was only granted, shamefully, 45 years later.

Standing Bear's quest to bury his son's remains in his tribe's homelands sparked one of the most memorable debates in Native American history: Is an Indian a human being?

Representatives of Standing Bear and the U.S. government discussed their perspectives on this question in an Omaha courtroom instead of a battlefield. This debate legally defined Indians as human beings worthy of challenging the all-too powerful government. This diplomatic debate, which ultimately deemed Indians human under the law for the first time in American history, undoubtedly facilitated the Indian people's future entitlement to rights and ultimately citizenship.

⁶⁰ Starita, Joseph. Email interview. 23 Jan. 2022

⁶¹ Dando-Collins, Stephen. *Standing Bear Is a Person: The True Story of a Native American's Quest for Justice*. N.p.: Da Capo Press, 2005.

Annotated Bibliography Primary Sources

Books

Jackson, Helen Hunt. *A Century of Dishonor: A Sketch of the United States Government's Dealings with Some of the Indian Tribes*. N.p.: University of Oklahoma Press, 1881.

A Century of Dishonor is a book written by Helen Hunt Jackson, a poet and essayist who wrote about Native American mistreatment in hopes to gain civil rights for Indians. I read through the introduction and “Standing Bear” parts of this book because in my paper, I wrote about Jackson’s pursuit in Native American-related literature after meeting Standing Bear.

Tibbles, Thomas Henry. *Buckskin and Blanket Days: Memoirs of a Friend of the Indians Written in 1905*. Edited by Theodora Bates Cogswell. N.p.: Bison Books, 1957.

This book is a memoir written by Thomas Tibbles, a journalist who greatly assisted Standing Bear in his fight against mistreatment (Tibbles found the lawyers who argued in the case and heavily publicized Standing Bear’s story to gain public support). In this memoir, Tibbles details what occurred during May 1 and May 2nd of 1879, which is when Standing Bear Vs. Crook was argued in an Omaha federal courtroom. I used a quote from Standing Bear that was included in this memoir, in which he addresses the courtroom audience and says “I am a man” among other things.

Tibbles, Thomas Henry. *The Ponca chiefs: an Indian's attempt to appeal from the tomahawk to the courts : with some suggestions towards a solution of the Indian question*. N.p.: Boston: Lockwood, Brooks, and Company, 1879. Hollis Harvard.

This book is written by Thomas Tibbles, a journalist who greatly assisted Standing Bear in his fight against mistreatment. It focuses on the events leading up to the Standing Bear Vs. Crook as well as some reflections on Native

American discrimination in general. I read this book to gain a better understanding of Standing Bear’s move from Niobrara to Oklahoma and also Thomas Tibbles’ discovery and interactions with the Ponca group.

Tibbles, Thomas Henry. *Standing Bear and the Ponca Chiefs*. N.p.: Bison Books, 1972.

This book is written by Thomas Tibbles, a journalist who greatly assisted Standing Bear in his fight against mistreatment. In it, Tibbles transcribes Webster, Poppleton, and Lamberston’s arguments verbatim, including cross-examinations, testimonies, and comments from the court. I used this source when mentioning that direct communication between the lawyers was also conducted in the courtroom during cross-examinations.

Treaties

Treaty of Fort Laramie, S. Treaty Doc. (Apr. 29, 1868).

This treaty, between the Sioux Nation and the U.S. government, mistakenly declared the Ponca’s land as

part of the Great Sioux Reservation. I included content about the Treaty of Fort Laramie to show how the Ponca were forced out of their homeland for a mistake on the government's part and not their own. This helped me establish background information in my paper about why Standing Bear was suing the court later on.

Newspapers

Battenfield, J. E. "A Highly Important Decision." *The Russellville Democrat* (AR), May 22, 1879.

After Judge Dundy released his opinion regarding Standing Bear Vs. Crook, various newspapers across America reacted with positivity and respect for Chief Standing Bear. The *Russellville Democrat*, a printing association in Arkansas, published a statement regarding the case, which I included in my paper as an example of the public support the Chief garnered.

The Daily Record Union (Sacramento, CA). "The Ponca Relief Business." January 8, 1880.

This was a newspaper written one year after the Standing Bear Vs. Crook case took place; it details the tour that Standing Bear and Thomas Tibbles made around the country speaking of the Ponca story. I read this primary source to learn more about where they went and what exactly they did on these tours, which I found out was performing lectures in various public venues.

Letters

Jackson, Helen Hunt. Letter to Charles Dudley Warner, December 21, 1879. WarnerCollection.

This letter was from Helen Hunt Jackson to her friend American essayist

Charles Dudley Warner, in which she wrote that Standing Bear's story kindled a fire within her and inspired her to write for Native American civil rights. I included this in the "successes" part of my paper to show that the Standing Bear vs. Crook debate inspired many non-Indians to write, speak, or learn about Native Americans.

Interviews

Buffalohead, Eric. Email interview. 16 Jan. 2022

Eric Buffalohead is the chair of the American Indian, First Nations, and

Indigenous Studies department at Augsburg, and an enrolled member of the Ponca tribe. Mr. Buffalohead provided me with insight regarding the long term effects of Standing Bear Vs. Crook; he explained that this landmark decision "began the fight for citizenship which culminated in 1924". I decided that paving the way to citizenship was an incredible long term success for this case and decided

to research it and mention it in my paper.

Caldwell, Robert B. Email interview. 16 Jan. 2022

Robert B. Caldwell is a visiting assistant professor of Native American and

Indigenous studies at Hampshire College. Mr. Caldwell helped me connect my project to the theme of diplomacy, as he mentioned how Standing Bear's "I am a man" address was "one of the most eloquent and memorable lines of diplomacy ever recorded". He also informed me that the Standing Bear case caught the attention of President Hayes' administration, which I did not know beforehand, and I included it in the consequences/successes section of my paper.

Nagle, Mary Kathryn. Email interview. 2 Feb. 2022

Mary Nagle is a partner at Pipestem & Nagle Law, a firm specializing in tribal sovereignty of Native nations and peoples. She also wrote a play about Chief Standing Bear titled "Waaxe's Law". Ms. Nagle provided me with lots of information about some of the shortfalls of Standing Bear Vs. Crook, such as the fact that it did not stop the federal government from continuing to enact harmful policies against Native Americans.

Starita, Joseph. Email interview. 23 Jan. 2022

Joseph Starita is a Pulitzer-prize nominated author, founder of the Chief Standing Bear Journey for Justice Scholarship Fund, writer of 2009 book *I Am a Man: Chief Standing Bear's Journey for Justice*, and professor in the College of Journalism and Mass Communications. Mr. Starita provided me with an incredible load of information regarding Standing Bear's impact, failures, and

connection to diplomacy. He informed me about many things I hadn't considered before such as the government's refusal to appeal Standing Bear Vs. Crook to the Supreme Court level as well as the 8-year give-and-take discourse that occurred between the Ponca and the U.S. government.

Court Cases

The Cherokee Nation v. The State of Georgia, 30 U.S. (Jan. 1831).
[https://www.loc.gov/item/usrep030001/#:~:text=Periodical%20U.S.%20Reports%3A%20Cherokee%20Nation,1%20\(1831\).](https://www.loc.gov/item/usrep030001/#:~:text=Periodical%20U.S.%20Reports%3A%20Cherokee%20Nation,1%20(1831).)

Chief Justice John Marshall published the opinion for this court case, which was between the Cherokee tribe and the government. In it, he defined the relationship of the Native American population to the U.S. government as "that of a ward to his guardian." I included this phrase in my paper in order to demonstrate the developing narrative that Native Americans were subordinate and even subhuman.

James E. O'Neill v. Eldon Morse, 385 Supreme Court of Michigan (Supreme Court of Michigan 1971).

This was a court case between James O'Neill and Eldon Morse regarding the death of an unborn child. The opinion for this case, written by R.B. Burns Jr., stated that "There was a time, early in our nation's history, when Indians were not regarded as persons, and the courts had to make it plain that indeed Indians were persons." The judge then referenced Standing Bear Vs. Crook. Thus, I used this source when discussing Native

American dehumanization and the belief that Native Americans were not people to verify that information.

United States ex Rel. Standing Bear v. Crook, 5 John F. Dillon (United States Circuit Court, D. Nebraska May 1, 1879).

This is the published opinion of Standing Bear Vs. Crook written by Judge

Dundy. I had a section titled “Judge Dundy’s Opinion” in which I summarized the results of the case. This opinion gave an overview of what was argued on each side. It also detailed Dundy’s rulings and legal definitions for Standing Bear and the 29 members of his clan. My entire paper was also based upon this opinion because it was the formal declaration of the first time a Native American was legally declared a human being.

Court Documents

Crook, George. "Standing Bear Vs. Crook: Testimonies: 1879." April 11, 1879. https://edan.si.edu/slideshow/viewer/?damspath=/Public_Sets/NMAI/NMAI-AO-Assets-and-Operations/NMAI-AO-Archives/NMAI_AC066/Box_002/Folder_11.

This was Brigadier General George Crook’s testimony sent to Judge Elmer

Dundy for Standing Bear Vs. Crook. In it, Crook detailed his arrest of Standing Bear and what his superior’s orders were for Standing Bear’s detainment in Fort Omaha. I used this source when describing Standing Bear’s arrest in my paper.

Lambertson, Genio Madison. "Thomas Henry Tibbles Papers - Standing Bear Vs. Crook: Argument of G.M. Lambertson, 1879." https://edan.si.edu/transcription/pdf_files/9755.pdf.

This was the submitted argument of Genio Lambertson, the attorney who argued on behalf of defendant George Crook in Standing Bear Vs. Crook. I

consulted this document when learning about how the U.S. government argued that Standing Bear was not a human being. This source helped me see the authentic discourse that occurred in the debate between representatives of each nation- I quoted Lambertson’s words in his argument that Native Americans were “contradistinguished” from the U.S. population.

Poppleton, A. J. "Thomas Henry Tibbles Papers- Standing Bear Vs. Crook: Argument of A. J. Poppleton." 1879. https://edan.si.edu/slideshow/viewer/?damspath=/Public_Sets/NMAI/NMAI-AO-Assets-and-Operations/NMAI-AO-Archives/NMAI_AC066/Box_002/Folder_08.

This was the submitted argument of A. J. Poppleton, a lawyer who argued on behalf of plaintiff Chief Standing Bear in Standing Bear Vs. Crook. Poppleton mainly argued about Standing Bear’s right to his Niobrara homeland, after Webster’s arguments regarding Native American pershood. I cited some of Poppleton’s closing statements when referring to the arguments that the Ponca had justification to return to their homeland and had been detained unlawfully.

Poppleton, A. J., and John L. Webster. *Petition for Writ of Habeas Corpus*. May 13, 1879.

7403552. Records of District Courts of the United States, 1685 - 2009. NationalArchives Catalog.

This was the official document of Poppleton and Webster's petition for a writ of habeas corpus on behalf of Chief Standing Bear. This writ helped me clarify what exactly the goal for the debate was and generally what the prosecutor side intended to argue. Also, it provided dates as to when the writ was sent to Elmer Judge Dundy, which I included in the paper.

Webster, John L. "Standing Bear Vs. Crook: Argument of J.L. Webster, 1879." 1879. https://edan.si.edu/slideshow/viewer/?damspath=/Public_Sets/NMAI/NMAI-AO-Assets-and-Operations/NMAI-AO-Archives/NMAI_AC066/Box_002/Folder_09.

This was the submitted argument of John L. Webster, a lawyer who argued on behalf of plaintiff Chief Standing Bear in Standing Bear Vs. Crook. Webster's arguments focused heavily on Standing Bear's right to habeas corpus on the grounds that he, as well as all Native Americans, was a person. I referenced

Webster's arguments in the debate portion of the paper when I summarize what points were made on both sides of the debate.

Reports

Bureau of Indian Affairs United States Department of the Interior. *Annual Report of the Secretary of the Interior on The Operations of the Department for the Fiscal Year Ended June 30, 1877*. By A. E. Howard. N.p.: Government Printing Office, 1877.

Agent Howard was a federal Indian Agent who accompanied the Ponca during their forced removal from Niobrara River Valley to the Indian Reservation in Oklahoma. Agent Howard kept a daily journal of both the journey and the process of moving into the new land. Agent Howard mentioned that the new land was plagued with mosquitoes and dry land, which I mentioned in the paper.

Images

Wolfenstein, Valentin. *Portrait of Chief Standing Bear*. 1877-1890. Photograph.

General William Nicholson Grier Collection of Photographs. National Museum of the American Indian: Smithsonian Institution.

This is a clear image of Chief Standing Bear taken sometime around when the Standing Bear Vs. Crook debate occurred. I included this image in my appendix to allow readers to visualize what the main character of my paper looked like as they read about his story.

Secondary Sources

Periodicals

Carlson, Leonard A. "The Dawes Act and the Decline of Indian Farming." *The Journal of Economic History* 38, no. 1 (March 1978). <https://doi.org/10.1017/S0022050700112197>.

This source details The Dawes Act and its detrimental effects to Native American ownership of land. A section of my paper reflects Standing Bear's direct connection to The Dawes Act, which wreaked havoc on Native American lives and thus contributed to a failure of the case. I used this source to gain information about what policies were enacted in the The Dawes Act and how they failed to fulfill their intentions.

Clark, Stanley. "Ponca Publicity." *The Mississippi Valley Historical Review* 29, no. 4 (March 1943): 495. <https://doi.org/10.2307/1916600>.

This source explains Standing Bear's assimilation to the Indian Reservation in Oklahoma. It details the hardships that they immediately encountered upon arrival as well as how many deaths there were. I used this source when mentioning that a third of the Ponca had died as a result of the forced removal.

Hutchison, Chace. "Standing Bear and the Ponca: A Forgotten Legacy." *International Social Science Review* 96, no. 1 (2020). <https://www.proquest.com/docview/2408835329>.

This source details Standing Bear's entire story from his origins to the Standing Bear Vs. Crook case itself. It includes an extensive synopsis of all the primary issues consulted between each side of the debate. Because the submitted arguments from each side are incredibly long, I read this source to get a summary of what was argued and rebutted.

Lake, James A., Sr. "Standing Bear! Who?" *Nebraska Law Review* 60, no. 3 (1981). <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=2032&context=nlr>.

This source is very detailed in explanation of the process of Ponca removal, especially the discourse that occurred between the Indian Agents and the Ponca Chiefs. I read through this source in order to gain a better understanding of how the U.S. government approached the Ponca when forcing them to leave their Niobrara River Valley homeland. Also, this source talked greatly about the reprimands and appropriations that the U.S. paid to Standing Bear after Standing Bear vs. Crook, which I included as a success of the trial.

Nagle, Mary Kathryn. "Standing Bear V. Crook: The Case for Equality under Waaxe's Law." *Creighton Law Review* 45 (2012). [https://dspace2.creighton.edu/xmlui/bitstream/handle/10504/40754/20_45CreightonLRev455\(2011-2012\).pdf;sequence=1](https://dspace2.creighton.edu/xmlui/bitstream/handle/10504/40754/20_45CreightonLRev455(2011-2012).pdf;sequence=1).

This source compares Standing Bear Vs. Crook with other landmark court cases such as Brown V. Board of education and evaluates its significance in Native American history. The author highlights the successes of this case, such as its role in developing the path to Native American citizenship and defining the Indian nation's legal status. This source helped me form my argument for the long term success of Standing Bear Vs. Crook.

Rolling, Willard Hughes. "Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965." *Nevada Law Journal* 5, no. 1 (2004). <https://scholars.law.unlv.edu/nlj/vol5/iss1/8/>.

This source helped me understand how exactly Native Americans were

characterized by early white leaders. It discussed how Native Americans were denied citizenship based on the belief that they were uncivilized and unintelligent, which I included in the “Native American Dehumanization”

section of my paper to explain the non-Indian perspective of Native Americans.

Starita, Joseph. "The Case of Standing Bear: Establishing Personhood under the Law." Review of a Court produced by University of Nebraska Lincoln. *Court Review: The Journal of the American Judges Association* 45, nos. 1-2, 4-11 (2009). Accessed 2009.

<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1289&context=ajacourtreview>.

This source gave information as to what happened directly after the case. It mentioned that per Judge Dundy’s ruling, Standing Bear and his followers were permitted to return home and did so. I included this piece of information as a

success of Standing Bear Vs. Crook, as the debate ameliorated the lives of the Ponca.

Books

Arnold, James R., and Roberta Wiener. "Standing Bear v. Crook." In *The Encyclopedia of North American Indian Wars, 1607–1890: A Political, Social, and Military History*, edited by Spencer C. Tucker. Santa Barbara, CA: ABC-CLIO, 2011.

This book offered a section on Standing Bear Vs. Crook included many important dates that I referenced in my paper, such as the date that Judge Dundy issued Poppleton and Webster's petition for a writ of habeas corpus.

Dando-Collins, Stephen. *Standing Bear Is a Person: The True Story of a Native American's Quest for Justice*. N.p.: Da Capo Press, 2005.

This source offered many quotes from important actors and stakeholders of the case, such as Indian Agent of the Ponca William Whiteman and Standing Bear himself. Furthermore, it offered a helpful summary of Justice Elmer Dundy’s opinion on Standing Bear Vs. Crook, which helped me write my section

regarding that document.

Schultz, Jeffrey D., Andrew L. Aoki, Kerry L. Haynie, and Anne M. McCulloch.

Encyclopedia of Minorities in American Politics: Hispanic Americans and Native Americans. Phoenix, Ariz.: Oryx Press, 2000.

This source includes a section on The Dawes Act of 1887, and details how much land Native Americans lost as a result of surplus made to non-Indians, as well as where and in what time periods they lost that land. I used this source when discussing the harmful effects that the Dawes Act had on Native Americans.

Starita, Joseph. *"I Am a Man": Chief Standing Bear's Journey for Justice*. N.p.: St. Martin's Publishing Group, 2010.

This source is written by an author that I interviewed. I read this book as soon as I came across Standing Bear's story, as it is one of the staples for this topic. It provided me with information about the case as a whole: background information, arguments presented in the courtroom, and the case's effect on the Ponca and Native Americans. I referenced this in various sections throughout my paper because it covered the entire time period between the Ponca's first interactions with the government to their success in winning the case.

Websites

"Chief Standing Bear." National Park Service. Last modified September 1, 2021. <https://www.nps.gov/mnrr/learn/historyculture/standingbear.htm>.

This source provided information about the Ponca tribe and its origins (ie. who they are, where they were located at first contact, and where they settled). I consulted this source when writing my introductory sentence about the Ponca and Standing Bear. It helped me understand the roots of what kind of place and culture Standing Bear came from.

"Chief Standing Bear." U.S. Courts Library 8th Circuit. <http://www.lb8.uscourts.gov/pubsandservices/histsociety/neb-chiefstandingbear-booklet.pdf>.

I read through this source when attempting to learn about the Ponca's

experience living in Niobrara River Valley. This source detailed how the Fort Laramie Treaty, which mistakenly labelled the Ponca land as the Sioux's, affected the Ponca. Furthermore, this gave a brief narrative of the courtroom setting of Standing Bear Vs. Crook (ie. minor details such as the fact that it was packed with people), and I added these subtle details into my paper to make it vivid and interesting.

"The Decision." Nebraska Public Media.

<http://netwagtaildev.unl.edu/nebstudies/en/1875-1899/the-trial-of-standing-bear/the-decision/>.

This source included quotes from newspapers that reacted to Judge Elmer Dundy's rulings. When writing about the successes of the case, I wanted to include the public support that Standing Bear amassed, and consulted these quotes, which reacted with utmost positivity and approval for the decision. I

gathered one quote from Omaha Daily Herald, a Nebraska newspaper, which was included in this source.

Dippie, Brian W. "American Indians: The Image of the Indian." National Humanities Center. <http://nationalhumanitiescenter.org/tserve/nattrans/ntecoindian/essays/indimage.htm>.

This source discussed the ways in which non-Indians characterized Native Americans as "savagery" during the early periods of American history. It

mentioned some of the terms used to describe Native Americans, such as "bloody-minded", "brutal" and "savage", which I decided to include in my "Native American Dehumanization" section as it clearly showed the uncivil ways in which non-Indians viewed Native Americans.

Nebraska Public Media. "Standing Bear Arrested." Nebraska Studies. <http://netwagtaildev.unl.edu/nebstudies/en/1875-1899/the-trial-of-standing-bear/standing-bear-arrested/#:~:text=Government%20agents%20refused%20to%20provide,Nebraska%20to%20bury%20his%20son.>

This source focused on how Standing Bear was arrested by George Crook and detained in Fort Omaha. I consulted this article to gain a better understanding of how and when Standing Bear was arrested, specifically at what point during his journey back to Niobrara River Valley.

"Ponca History." Ponca Tribe of Indians of Oklahoma. <http://www.ponca.com/ponca-history>.

This source is the official website of the Ponca Tribe of Indians of Oklahoma, the tribe that Standing Bear was a Chief of in the late 19th and early 20th century. I read through this page to gain background knowledge about the Ponca tribe as well as how they first started making treaties with the U.S. government. The

source mentioned how the Ponca were continuously attacked at seasonal buffalo hunts which led them to request support from the federal government, which was an extremely important connection point in my narrative, so I included it.

Smith, Dennis J. "Trial of Standing Bear." Encyclopedia of the Great Plains. <http://plainshumanities.unl.edu/encyclopedia/doc/egp.pd.053>.

This source helped me identify how exactly Standing Bear Vs. Crook led to the Dawes Act of 1887. It explained that Senator Dawes had attended one of Standing Bear's lectures on his tour with Thomas Tibbles and had been inspired to enact a policy to help Native Americans, which failed miserably. Thus, I included it in the "failures" section of my paper.

Smith, P. Daniel. "H.R. 2490." Office of Congressional and Legislative Affairs. Last modified May 22, 2019. <https://www.doi.gov/ocl/hr-2490>.

This source clarified small details that were missing in my understanding of how George Crook viewed the Ponca situation. The source mentioned that George

Crook had actually sympathised with Standing Bear and his people, but was forced to undergo his superior's demands to detain them. I included this piece of information in my essay to characterize George Crook as one who wanted to help, not hurt the Ponca.

Newspapers

Porter, T. R. "How the Indian Finally Became a Man." *The Evening* (Washington, D.C.), January 31, 1909. Library of Congress.

This source provided minor details that helped me visualize how the debate played out in the courtroom. For example, it explained that before Standing Bear spoke, he stood still "motionless for so long that the stillness...became unbearable." This piece of information helped me understand that Standing Bear's address to the court was a dramatic, memorable event in the case.

Non Periodicals

Mathes, Valerie Sherer. "Helen Hunt Jackson and the Campaign for Ponca Restitution, 1880-1881." South Dakota State Historical Society. Last modified 1987.

<https://www.sdhspress.com/journal/south-dakota-history-17-1/helen-hunt-jackson-and>

-the-campaign-for-ponca-restitution-1880-1881/vol-17-no-1-helen-hunt-jackson-and-t he-campaign-for-ponca-restitution-1880-1881.pdf.

This source discussed the relationship between poet and essayist Helen Hunt Jackson and Standing Bear. It discussed Jackson's contributions to Native American civil rights activists after Chief Standing Bear inspired her. Reading this source helped me solidify this success of the trial, and I ended up including a section to do with Standing Bear's inspiration to literary figures.

Podcasts

The Constitutional. Season 1, episode 3, "Ancestry." Narrated by Lillian Cunningham.

Produced by Ted Muldoon. Aired August 7, 2017, on The Washington Post.

This was the first ever source that I encountered that had to do with Standing Bear. It included an interview with Joe Starita, author of "I am a Man: Chief Standing Bear's Journey to Justice" and explained what the debate in Standing Bear Vs. Crook was about, and why the debate occurred in the first. It provided me with the inspiration and background information needed to start the project.