

Standing Bear: Standing up for the Rights of Native Americans

Kolby Johnson

Senior Division

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“That hand is not the color of yours, but if I prick it, the blood will flow, and I shall feel pain.

The blood is of the same color as yours. God made me, and I am a man”

- *Standing Bear*¹

Found within the preamble to the United States Declaration of Independence adopted in 1776: *all men are created equal, that they are endowed by their Creator with certain unalienable Rights, and among these are Life, Liberty, and the pursuit of Happiness.* These words embody America’s idea of equal rights for all persons. Has this idea always been held up throughout American society? Paradoxically, the United States Government, throughout history, has violated and failed to protect the inalienable rights of every American citizen. Marginalized groups created movements, raising awareness and fighting for their rights we all receive as citizens of the ‘Land of the Free’. Central figures proved essential to the success of these various movements: Susan B. Anthony in the Women’s Suffrage Movement and Martin Luther King Jr. in the Civil Rights Movement. Similar to Anthony and King, Standing Bear advocated for his beliefs, which eventually lead to rights for Native Americans.

Standing Bear was born around 1892 in northeast Nebraska,² near the confluence of the Niobrara and Missouri Rivers. The Ponca Indian tribe, to which Standing Bear belongs, carried a reputation of being the “most peaceful and quiet of all the Indians in the United States.”³ Many Nebraska settlers, attracted to the region due to land opportunity and motivated by the Homestead Act of 1862, considered the Ponca as defenders against the more hostile Native American tribes in the region (most notably the Sioux).⁴

¹ Tibbles, Thomas H. “Standing Bear’s Speech.” *The Indian Journal*

² Ritter, Beth R. “The Politics of Retribalization: The Northern Ponca Case.” *Great Plains Research: A Journal of Nature and Social Science* 4, no.2 (August 1994): 237-55

³ *Ibid.*

⁴ *Ibid.*

In 1858, three years before the start of the U.S. Civil War, the United States government and Ponca tribal leaders signed a treaty in which the Ponca relinquished land to the United States. Article I of the treaty states the land retained by the Ponca as:

*Beginning at a point on the Niobrara River and running due north, so as to intersect the Ponca River twenty-five miles from its mouth; thence from said point of intersection, up and along the Ponca River, twenty-miles; thence due south to the Niobrara River; and thence due down and along said river to the place of beginning.*⁵

In exchange for the cession of land, the United States agreed to six conditions laid out in Article II: (1) to protect the Ponca during their transfer to their new lands, (2) a requirement that the government compensate the Poncas \$12,000 annually for five years to spend at their discretion, (3) contribute \$20,000 to the Poncas' housing and agricultural infrastructure, (4) establish and maintain a school on the Ponca reservation, (5) provide a functional grinding and sawing mill, and (6) a requirement for the allocation of \$20,000 to assist the adjustment of the Poncas to their reduced territory.⁶

Nine years after both parties agreed to the treaty above, another came into effect. This treaty in 1867 involved more land relinquished from the Ponca. Article I:

The Ponca tribe of Indians hereby cede and relinquish to the United States all that portion of their present reservation as describe in the first article of the treaty of March 12, 1858 (proclaimed April 11, 1859), lying west of the range line between township numbers (32) thirty-two and (33) thirty-three north, ranges (10) ten and (11) eleven west

⁵ Wilson, Dorothy C. *Bright Eyes: The Story of Susette La Flesche*, New York, NY: McGraw-Hill

⁶ *Ibid.*

of the (6) sixth principal meridian, according to the Kansas and Nebraska survey, estimated to contain thirty thousand acres, be the same more or less.

Before the treaties of 1858 and 1867, estimates suggest the Ponca controlled 2,334,000 acres of land.⁷ After the establishment of the Ponca Reservation in 1858 and the additional land transferred in 1867, the Ponca's total land owned was 96,000 acres.⁸

The United States, attempting to ease tensions with the Sioux tribe, established the Fort Laramie Treaty of 1868, with Sioux approval. Article II of said treaty establishes a reservation for the Sioux Tribe by allocating lands “for the absolute and undisturbed use and occupation of the Indians herein named...”⁹ Included in the land establishing a Sioux reservation was the reservation occupied by the Poncas.¹⁰ Later in the Commissioner of Indian Affairs Annual Report of 1878, the transfer of the Ponca reservation to the Sioux is explained: “By a blunder in making the Sioux treaty of 1858, the 96,000 acres belonging to the Poncas were ceded to the Sioux. The negotiators had no right whatever to make the cession.”¹¹

Once seen as a cooperative and law-abiding group of Native Americans in their region, the Ponca tribe now possessed zero acres of land. The United States government signed an agreement with the Ponca to relocate the tribe to Indian Territory, present-day Oklahoma. However, historical evidence suggests that representatives of the Ponca tribe may have misunderstood the treaty due to translations of the terms. Many who testified before congressional committees stated they believed they were signing an agreement to move to the

⁷ Ritter, Beth R. “The Politics of Retribalization: The Northern Ponca Case.” *Great Plains Research: A Journal of Natural and Social Science* 4, no. 2 (August 1994): 237-55

⁸ Ibid.

⁹ “Fort Laramie Treaty of 1868.” Conclusion date: April 12, 1868

¹⁰ Ritter, Beth R. “The Politics of Retribalization: The Northern Ponca Case.” *Great Plains Research: A Journal of Natural and Social Science* 4, no. 2 (August 1994): 237-55

¹¹ Ibid.

nearby Omaha reservation.¹² Nonetheless, the United States government began forcibly removing the Ponca from their homelands to the Indian Territory. Beginning what is now known as the “Ponca Trail of Tears.”¹³

Newspaper articles from the towns along the “Ponca Trail of Tears” catalog the difference in opinion of this event. The *Columbus Era*, based in Columbus, Nebraska published a piece reading”

*Who can withhold a sigh at seeing another nucleus of long years of peace and contentment again broken, and perhaps forever shattered, by this act of the government in driving the Poncas at the point of the bayonet from their rightful home to a new territory and a climate they naturally dread, and debarred as they will be from every privilege held sacred by the Indian.*¹⁴

The same article argues that:

*It was the Indian’s country, and belonged to him by the right and title as forceful as the homestead law in Nebraska.*¹⁵

The first excerpt shows how members of the general population understood the dehumanizing acts carried out by their government. Many felt saddened and upset with the acts done towards the Native Americans. The second excerpt is, for its time, a radical statement. The idea that Native Americans’ possessions had the same legality as laws passed by the United States Government was far from a consensus amongst Americans. It showed that some white

¹² Ritter, Beth R. “The Politics of Retribalization: The Northern Ponca Case.” *Great Plains Research: A Journal of Natural and Social Science* 4, no. 2 (August 1994): 237-55

¹³ Ibid.

¹⁴ *Columbus Era*, June 2, 1877

¹⁵ Ibid.

Americans were ready to acknowledge the fact that Native Americans deserve rights under the law.

However, not everyone along the “Ponca Trail of Tears” seemed as compassionate toward the Native Americans. Degrading terms and racial slurs appeared in many of the articles published by local newspapers. The *Council Grove Democrat* referred to the Poncas as “scalp lifters.”¹⁶ The *Iola Register* describe the tribe as a “nice-looking lot of varmints.”¹⁷

Researching the various local newspaper reports as the Ponca Tribe advanced toward Indian Territory, it is easy to notice a vague trend. The closer to the Ponca homelands, the more the article seemed to reflect compassion and sorrow for the Ponca Tribe. However, as the Ponca traveled further south, the more hate they received. The *Council Grove Democrat* and *Iola Register* are both based south of the Nebraska-Kansas border. The further the distance between the Poncas and their homeland, the more hate they received. Nebraskans recognized that the Ponca carried a positive reputation. However, in Kansas, this was unknown. The ignorance of those in Kansas resulted in an attitude towards the Poncas rooted in xenophobia and racism.

The tragedy encountered by the Ponca persevered after their arrival to the Indian Territory. Resettled on 101,894 acres purchased from the Cherokees in modern-day north-central Oklahoma, the Ponca population decreased by 33% due to disease, poor nutrition (due to lack of regional farming knowledge), and exposure.¹⁸ Now-Chief Standing Bear’s son belonged to the 33% of the Ponca population to pass away. Wanting to honor his son’s final request, Standing Bear, and 29 additional Poncas, set out for Nebraska in the winter of 1879 to bury Standing Bear’s son’s remains.¹⁹

¹⁶ *Iola Register*, July 7, 1877

¹⁷ *Council Grove Democrat*, June 28, 1877

¹⁸ Howard, James H., and Peter le Claire. *The Ponca Tribe*: Lincoln, NE: University of Nebraska Press, 1995

¹⁹ Lake, J. A. Sr. 1981. Standing Bear! Who? *Nebraska Law Review* 60:451-503

Word got to Washington about Standing Bear's band's arrival in Nebraska. A telegram was sent to General H. Crook, Commander of the Department of the Platte in the Army of the United States, reading: *Thirty Poncas have left their agency in the Indian territory without permission. I respectfully request that the nearest military commander to be instructed to detail a sufficient guard to return these Poncas to the agency where they belong.*²⁰ Crook, who had gone through the painful Native American initiation of the Soldier Lodge,²¹ possessed an understanding of Native American life and culture that was rare amongst white people. This understanding, coupled with the respect and admiration Crook carried amongst Native Americans,²² made him no enemy of Standing Bear and his crew.

Crook understood how wrongful the acts requested by the government were. He confided to Thomas H. Tibbles, a prominent newspaper editor in Nebraska, "During the quarter-century that I've been on the plains in government service, I've been forced many times by orders from Washington to do the most inhuman things in dealing with the Indians, but now I'm ordered to do a more cruel thing than ever before. I would resign my commission, if that would prevent the order from being executed – it would not. Another officer would be assigned to fill my place. I've come to ask if you will not take up the matter. It's no use for me to protest. Washington always orders the very opposite of what I recommend."²³ Crook, with no other options available to him, arrested Standing Bear and companions and detained them at the Omaha reservation.

²⁰ Wilson, Dorothy C. *Bright Eyes: The Story of Susette La Flesche*, New York, NY: McGraw-Hill

²¹ Crook, George, and Martin Ferdinand Schmitt. *General George Crook: His Autobiography*. Norman, OK: University of Oklahoma Press, 1986

²² Ibid.

²³ Wilson, Dorothy C. *Bright Eyes: The Story of Susette La Flesche*, New York, NY: McGraw-Hill

Tibbles, taking up the request from Crook, started to act on the injustice occurring right before his eyes. Meeting with and hearing Standing Bear, Buffalo Chip, and other detained Poncas, Tibbles realized the urgency of the matter.²⁴

Nothing speaks more to the arduous task set in front of Standing Bear, Tibbles, and Crook than the words spoken by Tibbles, a Union soldier in the U.S. Civil War, to his wife: “I fought for the liberty of black men with pistol and saber, but I swear this fight for the liberty of the Indian, with only a pen for a weapon, is a damned sight harder on the body.”²⁵

Standing Bear was going to face the United States government in the battle for his and Native American rights. The United States government in a legal battle. The battlefield: a judicial system established by the United States government. It was an uphill battle from the beginning.

Under the advice of John L. Webster, president of the Nebraska Constitution Convention and considered one of the brightest legal minds in Nebraska at the time, Tibbles organized for Standing Bear and his companions to sue for a writ of *habeas corpus*.²⁶ The Latin term meaning “that you have the body,” is used to bring a prisoner or other detainee before a court to decide the legality behind the imprisonment. It proceeds as a civil action against a government agent.²⁷ In this case, that government agent was General Crook.

The writ, issued in April 1879,²⁸ stated that Standing Bear and the 29 other Poncas were “unlawfully imprisoned, detained, confined, and in custody, and are restrained of their liberty under and by color of the alleged authority of the United by George Crook...”²⁹ In the United

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Kim, Jonathan. “Habeas Corpus.” Legal Information Institute. Cornell University, June 2017

²⁸ “Standing bear v. George Crook.” National Archives and Records Administration. Accessed January 14, 2020

²⁹ Ibid.

States, “color of authority” is a legal phrase indicating that a person is claiming or implying the acts he or she is committing are related to and legitimized by their role as a government agent, especially unlawful acts of imprisonment.³⁰

Standing Bear v. Crook was heard in the United States Circuit Court of the District of Nebraska in May of 1879.³¹ Webster and A. J. Poppleton, chief attorney of the Union Pacific Railroad, comprised Standing Bear’s legal team in the case. Both were electing to serve without pay, working solely to fight the injustice toward Native Americans.³² During the case, arguments from both sides captivated large crowds gathered in the courtrooms for several days. Most of the audience members publicly expressed their support of Standing Bear and the Native Americans. However, no arguments enthralled the spectators as significant as Standing Bear’s speech.

Standing Bear rose in the courtroom in Lincoln dressed in the full robes of a Native American chief. Standing Bear argues that he is a man made from God, like any of his white companions, and he committed no crimes. Standing Bear continues with a story, an analogy to his situation:

I seem to be standing on a high bank of a great river, with my wife and little girl at my side. I cannot cross the river, and impassable cliffs arise behind me. I hear the noise of great waters; I look, and see a flood coming. The waters rise to our feet, and then to our knees. My little girl stretches her hands toward me and says, “Save me.” I stand where no member of my race ever stood before. There is no tradition to guide me... I hear my little girl say, “Save me.” In despair I look toward the cliffs behind me, and I seem to see a dim trail that may lead to a way of life. But no Indian ever passed over that trail. It

³⁰ Kim, Jonathan. “Habeas Corpus.” Legal Information Institute. Cornell University, June 2017

³¹ Standing Bear v. Crook, 25 F. Cas. 695 (D. Neb. 1879) 5 Dil. 453

³² Wilson, Dorothy C. *Bright Eyes: The Story of Susette La Flesche*, New York, NY: McGraw-Hill

*looks to be impassable. I make the attempt... I see the light of the world and of liberty just ahead.*³³

Standing Bear is described as turning toward the judge with an unforgettable look of emotion and continuing:

*But in the center of the path there stands a man. Behind him I see soldiers in number like the leaves of the trees. If that man gives me the permission, I may pass on to life and liberty. If he refuses, I must go back and sink beneath the flood. You are that man.*³⁴

Standing Bear's speech virtually assured a ruling in favor of the writ of habeas corpus to be upheld. The scene in the courtroom immediately after Standing Bear's last words was silence. Standing Bear took his seat as tears rolled down the judge's face. After a few seemingly endless moments, the crowd roared to their feet in celebration of Standing Bear.³⁵ On May 12, 1789, Judge Elmer S. Dundy delivered his ruling on *Standing Bear v. Crook*. Dundy concluded, "that an Indian is a 'person' within the meaning of the laws of the United States..."³⁶

Standing Bear stood in an arena, constructed by the very laws and jurisprudence he was at disagreement with, and successfully won the recognition of Native Americans as equals under United States law. His work of breaking a barrier constructed by the legal framework of the United States became a crucial first step in the civil rights of Native Americans. Standing Bear's statue sits in the United States Capitol apart of the National Statuary Hall. At the dedication ceremony, Nebraska Governor Pete Ricketts describes Standing Bear as "one of the most important civil rights leaders in our country that almost nobody knows about."³⁷

³³ Tibbles, Thomas H. "Standing Bear's Speech." *The Indian Journal*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Standing Bear v. Crook*, 25 F. Cas. 695 (D. Neb. 1879) 5 Dil. 453

³⁷ Brokell, Gillian. "The Civil Rights Leader 'Almost Nobody Knows About' Gets a Statue in the U.S. Capitol." *The Washington Post*, September 20, 2019

Annotated Bibliography

Primary Sources

Columbus Era, June 2, 1877. <http://chiefstandingbearmap.com/collections/show/1>

The *Columbus Era* newspaper wrote an article as the Ponca Tribe of Native Americans passed through Columbus, Nebraska on their journey to the Indian Territory located in present-day Oklahoma. The article was used to gain insight into the public opinion regarding the removal of the Ponca Tribe.

Council Grove Democrat, June 28, 1877. <http://chiefstandingbearmap.com/collections/show/1>

The *Council Grove Democrat* newspaper wrote an article as the Ponca Tribe of Native Americans passed through Council Grove, Kansas on their journey to the Indian Territory located in present-day Oklahoma. The article was used to gain insight into the public opinion regarding the removal of the Ponca Tribe.

Crook, George, and Martin Ferdinand Schmitt. *General George Crook: His Autobiography*. Norman, OK: University of Oklahoma Press, 1986

General George Crook began writing his autobiography in his later years of life. However, he died before completing his own life-story. Martin F. Schmitt continued where Crook left off. Using Crook's autobiography/ biography allowed for me to capture Standing Bear's story through General Crook's perspective.

"Fort Laramie Treaty of 1868". Conclusion date: April 12, 1868

The Fort Laramie Treaty of 1868 was used to look at the specific treaty that took away Ponca reservation land and transferred it into Sioux possession.

Iola Register, July 7, 1877. <http://chiefstandingbearmap.com/collections/show/1>

The *Iola Register* newspaper wrote an article as the Ponca Tribe of Native Americans passed through Iola, Kansas on their journey to the Indian Territory located in present-day Oklahoma. The article was used to gain insight into the public opinion regarding the removal of the Ponca Tribe.

"Standing Bear v. George Crook." National Archives and Records Administration. National Archives and Records Administration. Accessed January 14, 2020
<https://catalog.archives.gov/id/7403552>

This source provided the original document of Standing Bear and others suing for the

writ of *habeas corpus*. I gained insight into the reasons for Standing Bear and others for pursuing the writ.

Standing Bear v. Crook, 25 F. Cas. 695 (D. Neb. 1879) 5 Dill. 453

This source provided the opinion offered by Judge Elmer S. Dundy in his decision of Standing Bear v. Crook. It helped me understand the legal and moral explanations behind the judgement of the court.

Tibbles, Thomas H. "Standing Bear's Speech. The Indian Journal.
https://library.timelesstruths.org/texts/Stories_Worth_Rereading/Standing_Bears_Speech/

This account provided by Thomas Tibbles provides the speech delivered by Standing Bear in front of the United States Circuit Court of the District of Nebraska. Using the speech, I was able to understand the affect the writ of *habeas corpus* would have on Native Americans. Standing Bear's speech was well-composed and delivered even better.

Secondary Sources

Brokell, Gillian. "The Civil Rights Leader 'Almost Nobody Knows About' Gets a Statue in the U.S. Capitol." The Washington Post, September 20, 2019.
<https://www.washingtonpost.com/history/2019/09/20/civil-rights-leader-almost-nobody-knows-about-gets-statue-us-capitol/>

This article published by the Washington Post was written when Standing Bear's statue replaced William Jennings Bryan's in the National Statutory Hall in the United States Capitol Building. It helped me learn about the legacy Standing Bear has left behind.

"Chief Standing Bear." National Parks Service. U.S. Department of the Interior, April 11, 2019.
<https://www.nps.gov/mnrr/learn/historyculture/standingbear.htm>

This article published by the National Park Service gave a brief biographical overview of Standing Bear. I used it to acquire important dates in Standing Bear's life.

Howard, James H., and Peter le Claire. *The Ponca Tribe*. Lincoln, NE: University of Nebraska Press, 1995.

This research project published by the University of Nebraska told the story of the Ponca Tribe and their struggles. I used this to gain information and stories about the Ponca Tribe. Particularly their engagements with the United States government and the hardships they faced on the "Ponca Trail of Tears."

Kim, Jonathan. "Habeas Corpus." Legal Information Institute. Cornell University, June 2017.
https://www.law.cornell.edu/wex/habeas_corpus

This source explaining the concepts of *habeas corpus* and the color of authority was used to help me better understand the legal terms in relation to Standing Bear v. Crook.

Lake, J. A. Sr. 1981. Standing Bear! Who? *Nebraska Law Review* 60:451-503

This entry into the Nebraska Law Review explores the legalities behind Standing Bear's case and other endeavors. It also provided contributions to the story of Standing Bear's legacy for the rights of Native Americans in United States law.

Ritter, Beth R. "The Politics of Retribalization: The Northern Ponca Case." *Great Plains Research: A Journal of Natural and Social Science* 4, no. 2 (August 1994): 237-55.

This case study of Beth Ritter for the Great Plains Research Journal published by the University of Nebraska – Lincoln includes specific statistics and facts about the removal of the Ponca Indians and the eventual reacquisition of their land. It helped explain the loss of territory the Ponca faced at the hands of the United States government.

Wilson, Dorothy C. *Bright Eyes: The Story of Susette La Flesche*. New York, NY: McGraw-Hill Book Company. 1974

This biography of Susette La Flesche, wife of Thomas Tibbles who acted as Standing Bear's interpreter, gave a great timeline of events for Standing Bear's story and Thomas Tibbles's involvement in the case.