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Chief Standing Bear

Fight for His Homeland

by Patricia Morris Buckley

Illustrations by Adam Gustavson

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Patricia Morris Buckley

illustrated by *Adam Gustavson*

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INTRODUCTION

Europeans and Natives Meet

It's hard to imagine a time when Native Americans weren't considered people. But in the 1800s, the United States government treated Natives as less than human. They were robbed of their independence and autonomy. They weren't allowed to make decisions for themselves.

It began when Europeans first came to explore and settle in the Americas in the late 1400s. Native Americans were different from the European explorers and settlers.



autonomy: the right of self-government

They often had darker skin, didn't speak English, and practiced unfamiliar religions. They had traditions and customs they'd followed for many generations. They dressed in animal skins and handwoven blankets.

The Europeans didn't embrace these differences. They called Native Americans "savages" and tried to make them live as Europeans did. Europeans also brought new diseases with them. Many Natives grew ill and died from these unfamiliar diseases.

Many different Native tribes lived all across America. Each tribe practiced its own ancient customs, religions, and traditions. Most Natives thought humans should live in harmony and balance with nature. Europeans, quickly outnumbering Natives, believed they owned any land they "discovered." It didn't matter that people already lived on that land. European leaders drafted and signed official documents to decide what their governments owned and what Natives could have. These documents were called treaties.

In many treaties, Natives gave up large portions of their land in exchange for money, schools, farming equipment, and other helpful items. Often, these items were delayed or never arrived. Sometimes, the European

leaders forced Natives to sign the treaties. Some Natives agreed to live like Europeans, learning their language and religion and farming methods. Others refused, and many were forced.

Not long after the signing of the Declaration of Independence, when the thirteen British colonies became the United States of America, the new country began pushing Native tribes off their homelands. They sent many Natives away to the near-empty “Indian country,” or Indian Territory, in what is now Oklahoma, where there was plenty of unoccupied land. Many tribes were moved there to make land in the east available for American settlers.

By 1850, around one hundred thousand Natives had already been moved to Indian Territory. This land was divided among many tribes, each given their own reservation. The land had not been settled by Europeans or American citizens because its dry, rocky soil was bad for farming. The Natives, however, had no choice. For many, this was their home now.

Chief Standing Bear of the Ponca tribe changed all that in an 1879 landmark trial.

"What's in a Name?"

When the European explorer Christopher Columbus first arrived on the American continent in 1492, he thought he was in India. He thought the people already living there were Indians. So for hundreds of years, the Indigenous people of the Americas were called Indians. When Europeans realized the land wasn't India, it was named America after another European explorer, Amerigo Vespucci. The Europeans' name for the Indigenous people then changed to American Indian. Today, instead of accepting a name decided for them by Europeans, Indigenous people choose their name based on how they identify: some still call themselves Indian or American Indian, while others call themselves Native, Native American, Indigenous, First Nations (in Canada), or by their tribal name (Hopi, Cheyenne, Sioux, etc.).

Meanwhile, as the European presence became more widespread, Natives referred to them in a number of ways, often based on specific tribal encounters. Many old movies and novels, however, depict all Natives calling Europeans "The White Man." This, for the most part, has been absorbed into cultural legend. While this term and other variations of "white" and "light skin" were used, they were not the only terms used by the Indigenous peoples to describe Europeans. The following are just a few English translations of names that the many different Indigenous peoples used for Europeans: "Yellow Hide" for their lighter skin, "blonds" for their lighter hair, "growlers" because their voices sounded rougher, "capwearers" because many Europeans wore hats while many Natives did not, "Spider" for their wisdom and skill, "trappers" because some of the first European settlers were animal trappers, "person from the salt (sea)" or "sea men" because they arrived on ships, and "unknown people" or "stranger."

Reservations

Beginning in the early 1800s, Native tribes were confined to lands called reservations. Many of these reservations were in Indian Territory, a large swath of land in present-day Oklahoma that was set aside for the sole purpose of resettling Natives. Reservations served essentially as detention centers, as Natives often weren't allowed to leave. This allowed the U.S. government to reshape their way of life. For one, Natives couldn't participate in the age-old tradition of hunting, which consisted of tracking animal herds over hundreds of miles. The Natives were forced to adopt European practices like farming, as well as the English language and European-style clothing, and were pressured to convert to Christianity.

1

The Ponca

The Ponca tribe lived along the border of Nebraska and South Dakota, in the rich valley where the Niobrara and Missouri Rivers meet. “We lived on our land as long as we can remember,” said Standing Bear, the chief of the Ponca tribe. “No one knows how long ago we came there. The land was owned by our tribe as far back as memory of men goes.”

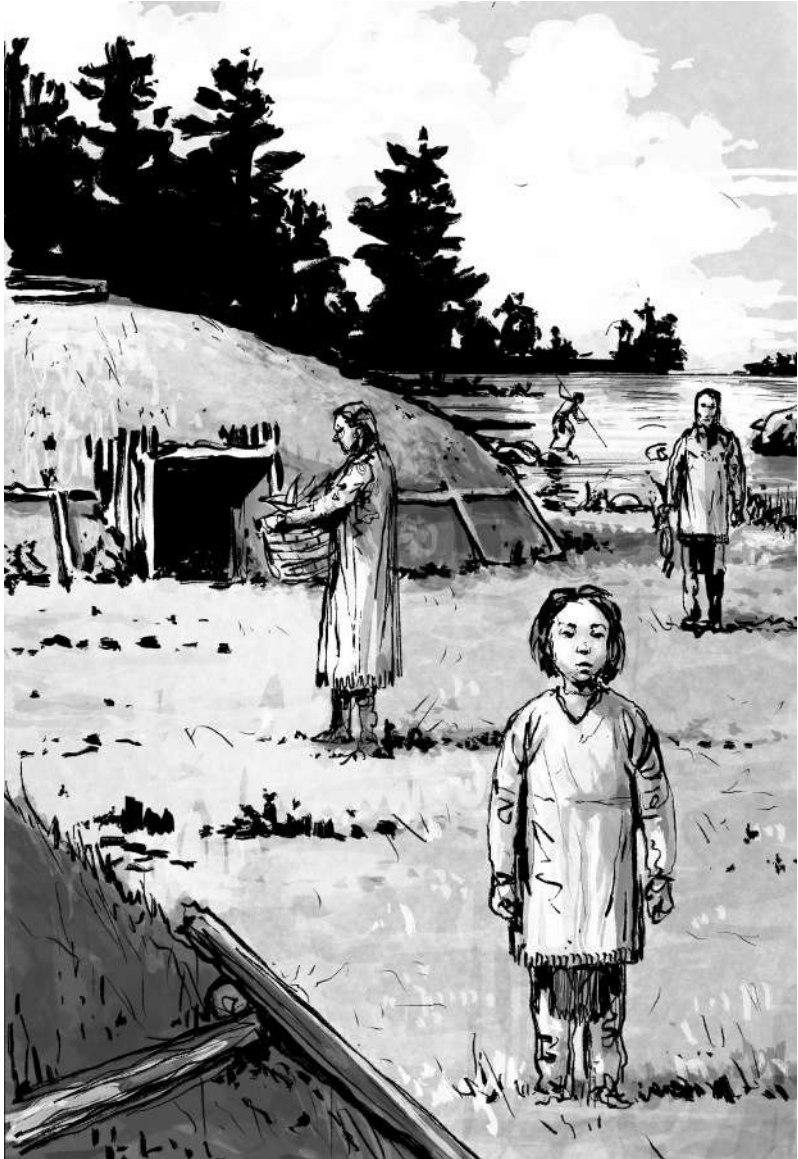
The Ponca tribe was small, less than eight hundred people, and made up of several clans. A peaceful people, they valued their age-old traditions. Families were extremely important to them. They lived in dome-shaped homes made of clay and lived off the land. Dancing was one of their main social activities, with Ponca participating in a large variety of powwows. Their ancestors were buried on the cliffs overlooking the rivers. The Ponca firmly believed that if they weren’t buried with their ancestors, their souls would wander alone forever.

The Ponca ate well by hunting wild game and planting crops. Twice a year, they would hunt bison to provide

clans: groups of people with a common ancestor

powwows: Native American ceremonies or social gatherings

meat for the rest of the year. They also fished and grew corn, squash, and potatoes. They were fond of dandelion greens and turnips.



The laws of the Ponca were guided by seven principles based on one central belief: what was good for the tribe was good for each member. They believed they shouldn't kill each other or steal. They practiced being kind to one another.

The Ponca, like all Native tribes over time, began to feel the effects of the Europeans' arrival. As Europeans came to settle nearby land, they brought with them a disease called smallpox. Between 1780 and 1804, so many of the tribe died from the illness that the number of Ponca fell from around eight hundred to around two hundred.

In 1829, a child was born into the Ponca's Bear Clan. He was given the name Maⁿchú-Naⁿzhín, or Standing Bear. From a young age, he began to show the skills of a leader. He grew into a tall man with a handsome face and impressive bearing. He became an excellent storyteller and had the ability to clearly express his opinions. He married and had two daughters. When his first wife died, he remarried. His second wife gave birth to a boy. They named him Bear Shield.

Each Ponca clan had its own chief, and Standing Bear became chief of Bear Clan at an early age. Standing Bear believed in Ponca traditions and customs. He wanted to live and die on his ancestors' land. But to protect the Ponca way of life, he also knew Natives would have to adopt

smallpox: a disease caused by a virus that leads to fever and a bumpy skin rash

some American traditions or practices. So he attended a Christian church and sent Bear Shield to a school to learn English.

In the 1860s, outsiders, including the U.S. Cavalry, American settlers, and even “tourists,” began to hunt bison in large numbers. Bison meat, an important food source for the Ponca, became scarcer. But the Ponca were determined to adapt to their changing world. They tried to become an agricultural society, relying on farming more than hunting. But drought, locusts, and tensions with the neighboring Sioux tribe made farming their land very difficult. During this time of change and uncertainty, the Ponca turned to the United States government for help.

It would take the Ponca a long time, and a great deal of suffering, to get that help. Standing Bear guided his people through it all. A good father, a good chief, and a good man. That’s how Standing Bear was known to his people. But in history books, Chief Standing Bear is remembered for his voice—the first Native voice heard in a U.S. courtroom—and the rights he secured for Native people.

scarcer: more difficult to find

locusts: grasshoppers that travel in large swarms and eat all the plants they find

2

Treaties and Change

The United States government began its official relationship with Native peoples long before Standing Bear was born. On July 13, 1787, the Northwest Ordinance was made into law. It said, “The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent.” In other words, the Native Americans would be left alone.

But two years later, when the United States Constitution was written, it said something different: “The Congress shall have Power . . . to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” The U.S. government was showing more interest in Native affairs.

The government wasn’t the only trouble the Ponca faced. From the west came attacks from the Sicangu people, a band of Lakota Sioux also known as the Brulé. From the east came American settlers who wanted Ponca land.

The U.S. government continued to grow its power and influence in Native lands through treaties. Some treaties were agreed to by both the government and Natives. The Ponca, however, disliked these treaties. But because the Ponca believed in peace, they never harmed settlers. They cooperated. They were known as “good Indians.” As a result, the tribe’s peaceful nature left them vulnerable to abuse and exploitation.

Over a period of fifty years, the Ponca would sign four treaties with the U.S. government. The first treaty, signed on June 25, 1817, was about a friendship between the Ponca and the United States. It claimed to establish “perpetual peace and friendship” between them. This sounds as though the two parties would be friendly—but the treaty was better for the United States than the Ponca. During this time, other European countries were exploring the continent and claiming land as well. This first treaty said that the Ponca agreed to be protected by the United States of America. The Ponca also had to agree not to make treaties with any other nations. This protected U.S. interests because it would keep foreign countries from gaining power and influence in Ponca lands.

The second treaty, in 1825, tightened the U.S.

government's hold on the Ponca. When the government representatives came to speak to the Ponca, the treaty had already been written. The tribe had little chance to change the wording or refuse to sign.

The treaty said that:

- ✦ the Ponca agreed that their land was part of the United States,
- ✦ the Ponca would be under the U.S. government's protection, and
- ✦ the U.S. government would control Ponca trade.

But it was the third treaty, in 1858, that would change the Ponca's world forever.

The 1850s were hard on the Ponca. They starved from crop failures. They feared for their lives when the



Sicangu raided and attacked their villages. They were surrounded by American settlers who wanted their land. So the Ponca turned to their “friends” in the U.S. government for help. The only thing they had to trade? Land. Lots of it.

If the Ponca wanted help, the U.S. government said, they would have to give up ninety-six thousand acres of their own land. They could only keep thirty thousand acres for themselves. In return, the government promised, among other things:

- ✦ protection,
- ✦ payments every year for thirty years,
- ✦ a flour mill, timber mill, and mechanic shop(s) with tools,
- ✦ a first-year payment of \$20,000 to help with costs related to setting up new homes and farms, and
- ✦ payments of \$5,000 every year for ten years to educate Ponca children.

The United States government hoped this would help “colonize and domesticate” the Ponca.

In 1858, the Ponca signed the treaty. In return, they expected protection from the Sicangu. But protection

colonize: take control of an area and its people

domesticate: cause to become adapted to a certain way of living

did not come. The Sicangu kept attacking the Ponca, and the U.S. government did nothing to stop them. Still, the Ponca remained peaceful. They did their best to farm and live like the Americans. They fulfilled their side of the treaty.

In 1865, the government signed a fourth treaty with the Ponca. This one seemed like it might be good for the Ponca. As a reward for the Ponca's good behavior, the U.S. government agreed to swap the ninety-six thousand acres the Ponca had given up for the thirty thousand acres the Ponca had kept. Things were looking up.

In 1868, however, the government signed a different treaty with the Sioux nation: the Treaty of Fort Laramie. The Sioux agreed to be peaceful in exchange for a large swath of land. This included the land that had just been returned to the Ponca. The government had mistakenly promised the same land to two different Native tribes.

It took almost ten years for the government to realize its mistake. Its solution? Move one of the tribes off the land. The Ponca tribe was small and peaceful. This would make them easier to relocate than the Sioux. In 1877, the United States government decided to resettle the Ponca in Indian Territory. The Ponca had no choice in the matter.

3

Journey of Sorrows

In 1877, Indian inspector Edward C. Kemble told the Ponca chiefs they had to move. The chiefs refused. Kemble suggested the chiefs travel to Indian Territory before the rest of their tribe to see if they could make it their home. Kemble promised that if they didn't like the land, they could meet with President Rutherford B. Hayes at the White House in Washington, D.C., to discuss other options.

In February, the chiefs took a train to Indian Territory. What they found was discouraging. The rocky soil was hard and dry from the intense sun. Other tribes already living in the area were sick. They knew they could not live there. The chiefs decided they wanted to see the president.

Kemble went back on his promise. The chiefs could not visit the president. He told them that if they didn't accept the land in Indian Territory, they would have to find their own way home. But the chiefs refused the land. They didn't have money to take a train or rent wagons, but they were determined to return to their tribe. So they walked five hundred miles toward home. With no food,

they begged from people along the way.

Fifty days into their journey, they arrived at the Otoe reservation in present-day southern Nebraska. Kemble had sent word ahead to the Otoe agent, telling him not to help the Ponca chiefs. But when the agent saw that they were starving and their feet were bleeding, he gave them food and asked them what had happened. He was appalled at the chiefs' story and promised to write a letter to Washington on their behalf. The Otoe then provided them with fresh horses and supplies to continue their journey north.

Five days later, the chiefs arrived on Omaha lands. The Ponca and the Omaha were cousin tribes who lived near each other, spoke the same language, and often married each other. Theirs was a strong friendship. The Omaha helped the Ponca chiefs heal and gave them food. Then one of the Omaha took the chiefs to a nearby city, where they met with a newspaper editor and told him about their journey, their dislike of Indian Territory, and their unfair treatment. They also sent a telegram to the president, asking if he had authorized Kemble to treat them as he did. The newspaper published an article expressing outrage and sympathy for the Ponca. The president never responded.

telegram: a message sent as a coded signal over wires

authorized: gave permission to do something

The chiefs continued on their journey, finally reuniting with the rest of the Ponca. But the reunion was short-lived, for they found Inspector Kemble waiting for them. He had been ordered to forcefully move the Ponca to Indian Territory. The Ponca said over and over that they didn't want to leave their ancestral land. The government responded with threats and force. They threw the Ponca in jail. They stole the Ponca's possessions. They threatened to break up Ponca families.

Finally, the Ponca could withstand no more. The entire tribe, which now numbered 710—82 of whom were in Standing Bear's clan—had to leave their last sliver of land to walk five hundred miles during a very rainy May. They called it the Journey of Sorrows.

The journey was challenging, especially for the old, the young, and the sick. Right away, Ponca members started to die. First a child, then an elder. Standing Bear's oldest child, Prairie Flower, came down with tuberculosis. She grew weaker and weaker. A day away from the next village, she died, leaving behind her two children. The weather grew worse, with almost tornado conditions. Nine Ponca perished during the trip.

tuberculosis: an infection of the lungs that causes fever and difficulty breathing



By the time the tribe reached Indian Territory, they were weak, and many were very ill. They arrived in midsummer, too late to plant crops. None of the farm equipment or wood they'd been promised had arrived. Instead, they lived in cold tents that leaked rainwater. More Ponca became ill.

"It was like a great house with a big fire in it, and everything was poison," said Standing Bear. "We never saw such kind of sickness before. One hundred and fifty of our people have died, and more are dying every day."

In the fall of 1877, the chiefs were finally able to travel to the White House and meet with President Hayes.

They asked the president to allow them to return to their old land, but it now belonged to the Sioux. Reversing the decision would be difficult. President Hayes promised they could have whatever land they wished for—as long as it was in Indian Territory.

The president kept his meager promise, and the Ponca were moved once again to a new plot of land in Indian Territory, on the bank of the Arkansas River. It was the summer of 1878, and it was once again too late in the year to find good land or plant a crop.

Then more tragedy struck.

4

A New Resolve

In many Native cultures, the son of a chief holds an important position. He is supposed to take over his father's duties when the chief dies. Standing Bear raised his son Bear Shield to become a leader. He did his best to teach Bear Shield how to coexist with the American settlers. Bear Shield learned their language, traditions, and way of life. Standing Bear hoped that when he was gone, Bear Shield would be a good leader in this new and changing country.

But a chief's son is not immune to the suffering of his tribe. Like so many of the Ponca, sixteen-year-old Bear Shield grew ill on their new land in Indian Territory. It soon became clear that he would not recover. Although he had studied the ways of the "white man," Bear Shield still followed Ponca traditions. The Ponca believed that a tribal member had to be buried among their ancestors or their soul would wander the earth alone. On his deathbed, Bear Shield said to his father, "I would like you to take my bones back and bury them there where I was born."

Standing Bear promised his son that he would.

When Bear Shield died of his illness, Standing Bear felt deep sorrow and loss. He felt sorrow not only for his son but also for his tribe. They were prisoners there, forced into a home they did not want. They were not free in this place. He felt that if they stayed, their whole tribe would disappear. If they wanted to live, they had to return home.

Standing Bear made plans to return to his homeland, and he would bring the bones of his son with him. This was a dangerous plan indeed, for it was now illegal for Natives to leave Indian Territory without permission. Standing Bear knew this, but he would not let it stop him. "If the soldiers come after us," he told them, "I will not fight. They can do what they please with us. Whatever they do, it can't be worse than to stay here."

He organized twenty-nine other Ponca, including most of his family. Together, they left Indian Territory on January 2, 1879. Once again, they set out on the five-hundred-mile journey on foot.

They faced the chill of winter with thin clothing and little food or money. They grew very weak, but they continued on. Most of their food came from strangers they met along the way. The first settler they encountered didn't understand what the Natives were asking for

at first, as they couldn't speak English and had no interpreter. But when the man saw the starving children, he immediately provided help.

"The white people treated us very kindly," recalled Standing Bear. They gave the Ponca food and kindness, helping them along their long journey home.

After two months of walking, they finally arrived, hungry and weak, at the Omaha reservation on March 4, 1879. The Omaha gave them food and helped them recover. Omaha chief Iron Eye invited the Ponca to stay as long as they wanted. He even offered them some land and seed to farm.

Their arrival, however, was no secret. The day the Ponca were received by the Omaha, an Indian agent sent a telegram to Washington, D.C., to report the Ponca's movements. The Ponca had broken the law by leaving Indian Territory. They would be arrested.

General George Crook, a regional commander who was stationed at Fort Omaha, was put in charge of the arrest. On March 23, the army unit he had sent to the Omaha village arrived and arrested the thirty Ponca. Four of the Ponca were too sick to travel and were allowed to remain with the Omaha. The other twenty-six were taken into custody. The soldiers and their prisoners arrived at

interpreter: someone who translates speech for people speaking different languages

Fort Omaha on March 27. Still weak from their journey, the Ponca were forced to live in tents as they waited until they were well enough to be transported back to Indian Territory.



But the Ponca did not want to go.

Indian Agents

In order to control Native Americans, the U.S. government sent "Indian agents" to live on reservations. The job of an agent was to solve conflicts between settlers and Natives, enforce government rules, work with local forts and soldiers, and distribute any resources the government gave the Natives. They had authority over all Native activities.

Forts

As the United States expanded west, settlers arrived in what was called the "American frontier." To protect settlers, the U.S. government built forts across the frontier. Like walled-in villages, these were military stations that housed soldiers and supplies. They were meant to defend settlers in times of war or threat of danger. Fort Omaha, where Standing Bear and his people were imprisoned, was one such fort. Its grounds included corrals, a wagon repair yard, four stables, and a house for the commanding general.

corrals: pens for keeping animals

5

Under Arrest

The Ponca were now under the control of General Crook. A soldier in the U.S. Army, General Crook had fought against Native people in the past. However, he had also lived on the frontier among Natives for many years. In that time, he had become friends with many Native tribes. He had come to disagree with the government's unfair treatment of Natives, and although he followed the order to arrest the Ponca, he had done so reluctantly. So when, shortly after the Ponca prisoners' arrival at Fort Omaha, Chief Iron Eye of the Omaha and his daughter Bright Eyes visited him to plead the Ponca's case, General Crook listened to their story.

With Bright Eyes acting as her father's interpreter, the two Omaha told Crook how everything had been taken from the Ponca. They said that the Ponca had been forced to walk five hundred miles to a land they could not farm and that many had become sick and died, including Standing Bear's own daughter and son. Their story made Crook sad and angry. He told Iron Eye and Bright Eyes that he wanted to help. The Ponca had gained an unlikely ally.

ally: someone who gives support for a shared goal

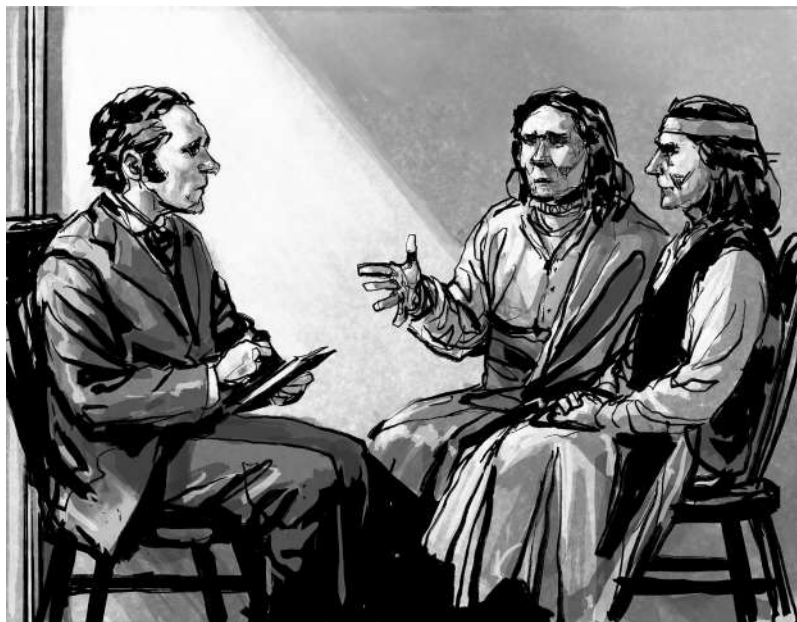
Crook thought that if people could only hear the story he had heard, they would become sad and angry too—they would want to help the Ponca. He needed to share their story with as many people as possible. Crook knew most of the country got its news from newspapers. So he contacted the press. Maybe publicity would change minds in Washington.

Shortly after midnight on March 30, Crook took Iron Eye and Bright Eyes to meet with Thomas H. Tibbles, assistant editor of the *Omaha Daily Herald*, at his office. Tibbles was a retired preacher who had fought against slavery. He was the right person to help the Ponca. Together, the two Omaha told Tibbles the story of the Ponca: their homeland, their peaceful ways, the treaties and broken promises, the Journey of Sorrows, the sickness and starvation, the rocky soil and leaky tents.

Later that morning, Tibbles went to Fort Omaha to interview Standing Bear himself.

He spoke first with Standing Bear's fellow prisoner Buffalo Chip (ta-zha-but), the chief of the Ponca's Medicine Clan. Buffalo Chip told Tibbles how the Ponca had once agreed to adopt the ways of the "white man." They had promised to build wooden houses and plow their fields for crops, if only they could stay in their homeland.

preacher: someone who gives religious speeches



“We have kept our word. We have taught our hands to hold the plow handles. We built houses. We raised stock. Now look at us today,” said Buffalo Chip. “See these rags. We have no houses, no stock, no grain, we are prisoners in this camp, and we have never committed any crime.”

Then Standing Bear spoke. He, too, told Tibbles about the Ponca’s willingness to live as the “white man” did. He said all the Ponca wanted was to work hard and take care of themselves. They had once been able to build houses, sow crops, and care for their families in peace. They just wanted to do the same again.

Then he told Tibbles about the horrible conditions the Ponca had endured. "My son died, my sister died, and my brother . . . was near dying," he said. "We had nothing to do but sit still, be sick, starve, and die." He recalled how, after months of sickness and death, they had decided to leave Indian Territory and join the Omaha. The Omaha had agreed to take them in and give them land to farm, but the government would not allow even that.

Finally, Standing Bear spoke about his promise to his son. "I could not refuse the dying request of my boy," he said. "I have attempted to keep my word. His bones are in that trunk."

Two days later, after further meetings and discussions, the story of Standing Bear and his people appeared in the newspaper. Then more newspapers picked up the story. Crook had hoped that people would be as outraged as he was. And they were.

"We want to be under the same law as the white man," Standing Bear said. "We want to be free." These words would have an especially powerful impact.

6

Preparing to Fight

Many people read the newspaper articles, yet the outrage of readers could not change the law. The Ponca were still under arrest. The fight had barely begun. It was clear that something needed to be done. Tibbles knew what to do.

Standing Bear had said that he wanted the Ponca to live under the law of the “white man.” For although the U.S. government had created laws to control Natives, it had not created laws to protect and serve Natives. For example, Natives could be arrested for breaking U.S. laws, but they could not file suit or testify in a U.S. courtroom. The law said they were not U.S. citizens, so they didn’t have any rights in a U.S. court. This meant that they had no way of fighting against their own imprisonment. In the eyes of the U.S. government, a Native American was not a “person under the law.” The Ponca, therefore, could not sue for release from imprisonment.

Tibbles knew these unequal laws were unfair, and he intended to see them changed. He intended, in fact, to

file suit: start a legal case to settle a problem or disagreement

testify: make a formal statement while sworn to tell the truth

take the Ponca's case of unfair imprisonment to court. But Tibbles was a journalist, not a lawyer. Could he find a good lawyer willing to risk their reputation to take on this landmark case?

He approached John Lee Webster, an old college classmate who was now a lawyer in Omaha. Webster agreed to take on the case under one condition: he wanted a co-counsel. He knew he would need extra help for such a difficult and groundbreaking legal fight. He picked Andrew J. Poppleton, a lawyer with a history of finding new ways to apply law.

Webster and Poppleton were both moved by Standing Bear's story, but they knew they needed more than emotion to change the law. Their opposition said that the Ponca's case couldn't be taken to court because Natives weren't considered persons under the law.

Webster and Poppleton needed to find an existing piece of law to help them take the case to court. They began by filing a writ, or legal order, of habeas corpus. Habeas corpus, a Latin phrase meaning "you have the body," is an important principle in U.S. law that is guaranteed in the Constitution. It means that a person under arrest must be brought before a court to decide if their imprisonment is fair. This principle protects people from indefinite imprisonment without due process.

landmark case: a legal case that has a long-term effect on how the law is applied in the future

It was a strong argument, but Webster and Poppleton still needed to prove that the Ponca were citizens in the eyes of a U.S. court. The court case seemed doomed until Tibbles found a solution. He discovered it in the Fourteenth Amendment to the U.S. Constitution.

The 1866 amendment, originally passed with formerly enslaved people in mind, says:

All persons born or naturalized in the United States . . . are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.

On April 8, 1879, Webster and Poppleton filed the writ of habeas corpus with Judge Elmer Scipio Dundy. The judge approved the writ. For the first time in history, Native people would fight for their rights in a United States courtroom.

The trial of fifty-year-old Chief Standing Bear and his tribe was scheduled for April 30, 1879.

Constitutional Amendments

When the Articles of Confederation were written, they appeared to cover all the laws needed for a fair country. But as time passed, progress demanded changes, and the Constitution was created. The Constitution is considered a “living document” whose meaning can change with time. More concrete changes can also be made in the form of amendments. These amendments often add or clarify the rights of citizens. Today, the Constitution has been amended twenty-seven times.

How a Civil Trial Works

A civil trial is a fair and just way to decide if someone is legally right or wrong. It is different from a criminal trial because the government is not charging somebody with a crime. The person who feels they are in the right is called the plaintiff. The person who the plaintiff believes has wronged them is the defendant. A judge is someone who doesn't take either side and keeps the trial fair. Judges and juries listen to arguments from both sides to decide who is right.

Person Under the Law

A “person under the law” is someone who has the same legal rights as anyone else. Among other things, this means they can appear in court. Until Standing Bear's case, Native Americans weren't considered persons under the law, so they couldn't defend themselves in a court of law or bring a lawsuit against someone who had wronged them.

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The Trial

General Crook had been a strong ally for the Ponca. He believed in the Ponca's claim to their land. He had introduced their Omaha allies to Tibbles and helped get their story told. But as a general in the U.S. Army, he had to obey the government. And because the government had put him in charge of imprisoning the Ponca and returning them to Indian Territory, he was named the formal defendant. In fact, the court case was named *Standing Bear v. Crook*. Crook would have to officially oppose the Ponca in court. His lawyer would have to prove that the Ponca's arrest was lawful.

The trial, which was delayed by a day due to heavy rain, lasted two days: May 1 and 2, 1879. The courthouse filled with onlookers as well as numerous newspaper reporters. The trial would be national news.

On one side of the courthouse sat General Crook, wearing his dress uniform. His defense lawyer was U.S. district attorney Genio M. Lambertson. On the other

side, with Webster and Poppleton, sat Standing Bear in his full chief regalia, including a necklace made of bear claws.

The court provided an interpreter, but he only translated the Ponca's words to English for the court. He did not translate the English for the Ponca unless they were being asked a direct question. This meant that Standing Bear and the other Ponca in the courtroom understood very little of the proceedings. Standing Bear's fate would be decided by men who did not speak his language and could not be bothered to explain things to him.

Webster and Lambertson took turns questioning witnesses. Webster focused on proving that Standing Bear and his followers dressed and lived, for the most part, like "white men"; all they wanted was to provide for themselves. Lambertson focused on proving the opposite.

When Standing Bear was called to the witness stand, both lawyers asked him if he considered himself a chief of his people.

"I don't consider myself any better than they are," he said. He did not see himself as a chief.

If he had truly left his Native ways behind to live as other Americans, he had a right to be protected by

American laws. If, however, he and the Ponca remained loyal to themselves, practiced their traditional lifestyle, and continued to receive aid from the government, the government had a right to keep them in Indian Territory.

On the second day of the trial, Webster made his closing argument. He read from a letter that President Thomas Jefferson had written to a Seneca leader in 1802. In it, Jefferson promised, “The lands you [hold] . . . should never go from you but when you should be disposed to sell.” According to Jefferson, Native American nations were fully independent, and the U.S. government had no right to interfere in their dealings with each other—which included the Omaha’s relationship with the Ponca.

Webster also read a U.S. Senate report from 1870 stating that the Fourteenth Amendment would apply to any Native Americans who separated from their tribe and chose the American way of life. These Natives were owed their most basic rights: life, liberty, and the pursuit of happiness.

After Webster spoke for about three hours, Lambertson spoke for another three hours. Lambertson provided arguments for why the U.S. government did not need consent from the Ponca to move them. He argued that the Ponca depended on the U.S. government, so they were wards, not citizens, of the United States of

America. They were not citizens or people in the eyes of the law. They had no right to even step foot in this courtroom. In fact, a similar case in 1857 came to that same conclusion when an enslaved man had tried to gain his freedom in court.

Standing Bear's other lawyer, Poppleton, had a counterargument to that: in 1879, there were no more enslaved people in America, thanks, in fact, to the Fourteenth Amendment. Poppleton also had a convincing counterargument to every other argument that Lambertson had made. In the end, it all came down to one truth: if Standing Bear was a person, a human being, his imprisonment was illegal. And how could this man—a man who had suffered for his people, mourned for his people and his children, fought for his people, and now carried the bones of his son to fulfill a dying wish—be seen as anything other than human?

When all the arguments had been made and the trial proceedings came to an end, Judge Dundy made a surprising announcement. In court, the speaker must be a lawyer or the judge, or be asked questions by a lawyer or the judge. But Standing Bear had asked if he could say something to the court, and the sympathetic judge had agreed. Now it was his turn to speak.

counterargument: a response to an argument that explains why someone disagrees

mourned: felt or showed grief over a loss

Standing Bear stood at the front of the room, facing everyone there. He wore a blue and red tunic, blue leggings, and moccasins made of deerskin. An eagle feather and otter fur were woven into his hair, and a Thomas Jefferson medallion and a string of bear claws hung around his neck. He could not speak English, so Bright Eyes would be his interpreter.

He held up his hand to the audience in silence for a long time. Then he turned to the judge. "That hand," he said, "is not the color of yours, but if I pierce it, I shall feel pain. If you pierce your hand, you also feel pain. The blood that will flow from mine will be of the same color as yours. I am a man. The same God made us both."

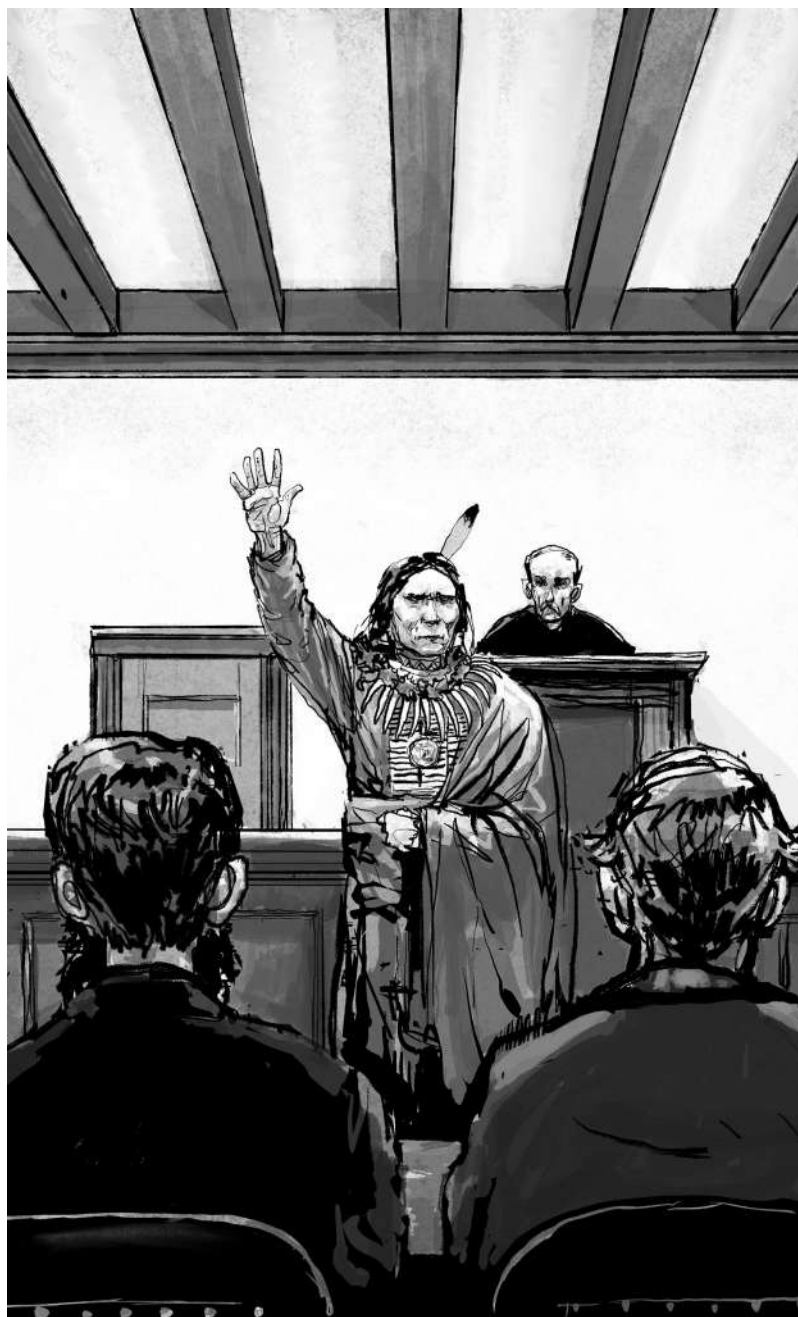
The room was silent.

Standing Bear continued. He described a scene in his mind.

He saw himself standing with his wife and daughter on the banks of a strong river. The water was rising. Behind him were cliffs, with only one treacherous path up to safety. They followed the path up, racing away from the flooding water below.

"But a man bars the passage . . ." Standing Bear said. "If he says that I cannot pass, I cannot. The long struggle

moccasins: soft leather shoes



will have been in vain. My wife and child and I must return and sink beneath the flood. We are weak and faint and sick. I cannot fight." He looked at the judge and said, "You are that man."

There was silence. Then there was crying, then clapping, followed by cheers. General Crook and many others shook Standing Bear's hand. The courtroom slowly emptied.

Standing Bear had gained the sympathy of the courtroom. But was he a man in the eyes of the law? Only the judge could decide that. For ten days, Judge Dundy studied the U.S. Constitution, amendments, laws, acts, and trials. He also considered the history of U.S.-Native relations: the broken treaties, broken promises, and stolen land. On May 12, 1879, the judge made his ruling known in a written document, which he read out in court.

"During the fifteen years in which I have been engaged in administering the laws of my country," wrote the judge, "I have never been called upon to hear or decide a case that appealed so strongly to my sympathy as the one now under consideration."

But he could not make his decision based on sympathy. He had to make his decision based on the laws of the United States. He summarized his decision in five parts:

1. Natives are persons under the law. They have the right to bring a case to court.
2. General Crook's arrest of the Ponca was illegal.
3. The government did not have the right to force the Ponca to return to Indian Territory.
4. Natives have the right to leave behind whatever they choose to pursue a new life. Just like everyone in the United States, they have the inalienable right to "life, liberty and the pursuit of happiness."
5. Because the Ponca had been illegally arrested, they must be released.

Standing Bear and his twenty-five fellow Ponca were free. It was a landmark civil rights decision that would forever change the status of Native Americans under the law.

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After the Trial

A few months after the trial, Standing Bear visited the Ponca burial grounds. There, he finally laid the remains of his beloved son Bear Shield to rest. His promise to his child had been fulfilled.



The U.S. government investigated the Ponca's removal and concluded that they had been gravely wronged. As part of its restitution—and with the agreement of the Sioux, with whom the Ponca were now at peace—the government restored twenty-six thousand of the original ninety-six thousand acres that had been taken from them. Over time, the Ponca began to return to their ancestors' land in Nebraska. Finally, the Ponca were back on their land and able to earn their own living.

Eventually, in 1890, the government gave every Ponca adult up to 160 acres to farm (or up to 320 for families), plus tools to farm the land. This was part of the 1887 Dawes Act, which was influenced by Standing Bear's victory. While they still faced hardships, the Ponca had their land back—and with it, much of their traditions. They were free to move where they wished.

The trial of Standing Bear became an important one, for its verdict went on to influence many decisions in future court cases. When people use the description of *person* in court, they refer to the ruling in Standing Bear's trial.

To spread the news of the trial and its impact on civil rights, Tibbles raised money to organize a lecture tour for Standing Bear throughout the eastern states. Bright

restitution: returning something that was lost or giving something of equal value to make up for the loss

Eyes served as his interpreter, and he said many of the same things he had during the trial. His regal bearing and impressive way of speaking won over many people.

Their first tour lasted nearly a year. During their travels, Tibbles and Bright Eyes fell in love. They married after returning home.

Standing Bear's contribution to Native American rights—and all of civil rights—has been celebrated. A lake, a bridge, two parks, and two schools are named after him. There are several statues in his honor. In 2023, his image appeared on a U.S. Forever stamp.

Standing Bear spent his last years on the three hundred acres the government had allocated to him. There he grew corn and raised cattle, living the fruitful life he had fought for in court. He died of cancer in 1908 at the age of seventy-nine. He is buried on a hill above his home on the land of his ancestors, just like Bear Shield.

Standing Bear lived his life based on the belief that all people deserve to be treated fairly and equally, no matter their differences. "We want to be free," he once famously said. He died happy, knowing he had restored Ponca rights and lands.

With eloquent words, a noble bearing, and a devotion to equality, Standing Bear showed the world that anyone can fight for what is right—and win.

Forever Stamp

In May 2023, the United States Postal Service issued a first-class mail stamp honoring Chief Standing Bear. The picture is based on a photograph taken of the Ponca chief during his 1877 visit to Washington, D.C. It's a Forever stamp, meaning it will always be able to be used for first-class mail. It will never lose its value.



Discussion Questions

1. Consider some of the differences between Native people and Europeans. What were they? Why do you think some of those differences led to conflict?
2. Why did the U.S. government choose to sign treaties with Native tribes?
3. What were the reasons the Ponca were sent to Indian Territory?
4. Why did Standing Bear decide to bring some of his people back to Nebraska?
5. Did Standing Bear and his clan break the law by returning home?
6. How did General Crook help Standing Bear and his people?
7. What did Thomas Tibbles do to make sure Standing Bear had a trial? Why was Tibbles “the right person” to help the Ponca?
8. What is habeas corpus, and why was it important in this case?
9. Why was the judge’s decision so important?
10. What made Standing Bear a good leader?

Meet the Author



Patricia Morris Buckley grew up in Syracuse, New York. She likes to say she grew up in a library because she spent so much time there while her mother earned her master's in library science. She attended Wells College and received a BFA in theater, but after a few seasons in New York City, she followed her family to sunny San Diego. There, she worked as a reporter for two decades before becoming, of course, an elementary school librarian.

She is the regional advisor emeritus for the San Diego chapter of the Society of Children's Book Writers and Illustrators and taught "Writing for Children" for the University of San Diego Extension program. Patricia writes for *Publishers Weekly*, has written four books, and

runs the website NativeAmericanKidLit.com. She is happiest when writing about her Indigenous background (she is Mohawk from the Kahnawá:ke Reserve, outside of Montreal, Canada). Patricia continues to reside in San Diego with her witty husband, their three children, one beautiful cat, and the sweetest dog in the universe.

Meet the Illustrator



Adam Gustavson is the illustrator of over thirty books for children, as well as the author/illustrator of *The Froggies Do NOT Want to Sleep* and *The Aliens Do NOT Want to Go Home*. Adam holds a master's degree from the School of Visual Arts in New York and serves on the faculty of Rowan University. He is the lead instructor at Renaissance Art Studio in Millburn, NJ, which he co-owns with his wife, Denise. He lives in New Jersey with his charming family and two peculiar little dogs.

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