...group of striking coal miners forced him ... chased by Allegheny Ludlum Steel, was being delivered to Bracken...

First Settlement Near in Indian Land Claims

By MICHAEL KNIGHT
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BOSTON, Jan. 26—With Indians, officials and landowners in seven states watching closely, the Narragansett Indians and Rhode Island are approaching a negotiated settlement that would affirm at least part of the tribe's claim to 3,200 acres in Charlesownn.

In the next few weeks, according to the parties involved, there will be a settlement providing that the bulk of the land must be kept forever wild.

The settlement would be the first major resolution in the 14 Indian land claim suits filed in the Eastern states in recent years and is expected to have a significant impact on negotiations in Maine, where the Passamaquoddy and Penobscot tribes have claimed more than half the state.

The progress reported in the Narragansett suit, which is scheduled to go to trial in United States District Court in Providence on April 3, has shifted the focus of the Indian land claims movement away from the ongoing trial here over the claim by the Mashpee Indians to 11,000 acres of land on Cape Cod.

Setback for One Tribe

The Mashpee case was being closely watched as the first such suit to face a jury since Indians from Maine to Louisiana, in a new wave of Indian awareness and militancy, began demanding the return of more than 10 million acres that they contended were illegally taken from them in violation of a long-ignored 1790 statute prohibiting the sale of Indian tribal lands without the express approval of Congress.

A Federal Court jury, ruling in the first part of a two-part trial, decided earlier this month that the Mashpee Indians did constituted a tribe in the legal sense for only eight years in their 300-year history, a decision that was viewed as a major setback for the group's land claim, which is the second issue for the jury to decide.

But parties on both sides of the other suits, which are in various stages of litigation, have since dismissed that jury decision as being either contradictory or based too narrowly on the Mashpees' unusual history to have wider implications. Beyond that, the decision is considered unlikely to withstand legal challenge. Federal District Judge Walter Jay Skinner, who has yet to accept the jury's verdict, heard arguments and motions for its dismissal today.

'Facts Are Different'

Joseph E. Brennan, Maine's Attorney General, who hailed the Mashpee decision as a defeat for the Indians and their attorneys "who have touted their claims as being strong throughout the country," nevertheless said that the decision "has only limited application" in legal terms. Tribal status has not been an issue in Maine since a Federal District Court ruled in 1975 that the Passamaquoddy and Penobscot were Federally protected tribes under the 1790 statute.

Thomas Tureen, a lawyer for the Native American Rights Fund, which has been financing the Maine suit, said he doubted the decision would stand up to challenges. "And if it does stand," he said, "the only cases it can affect are cases where tribal status is an issue, and I doubt that it will have an effect even there because the facts are different in each case."

In Rhode Island, where tribal status will be an issue as a result of an 1880 legislative action dissolving the Narragansett Tribe, George Watson, chief of the Narragansetts, also downplayed the effect of the Mashpee ruling. "A jury might be affected by that, and they might not," he said. "You never can tell. But I don't think it'll have much effect in our case; the circumstances are different." For example, state documents consistently referred to the "Narragansett Tribe" after the 1880 law permitted land sales to outsiders.

In Washington, Timothy Vollman, an attorney who watches Indian affairs for the Interior Department, said he would be reluctant to draw any conclusions from the Mashpee verdict. "It's the first time the question of tribal existence has gone to a jury," he said, "which made it a strange set of proceedings to say the least—37 days of testimony and thousands of exhibits to determine whether a group of Indians is a tribe."

Compensation Sought in West

"Perhaps too much has been made of the Mashpee decision," he added. "I heard one attorney say that this means that Indian people know they shouldn't go to juries, but that's much too speculative. Each case is different."

All the claims involve land East of the Mississippi River because they are based on the 1790 statute, which predated the Louisiana Purchase. Western Indians, however, have been complaining for decades that they were improperly compensated for land taken from them and in 1946 an Indian Claims Commission was set up to hear their complaints.

That body is still only half finished with its work, according to John Echo Hawk, executive director of the Native American Rights Fund. "Ask any tribe and they'll tell you they should have more land, but from a legal point of view, there is no issue in the West," he said. "That land is gone and the only question is the price paid."

The tribes in the East, however, contend that the circumstances under which they lost their land leave them a viable claim to the land itself.

In Maine, the Passamaquoddy were divested of all but 23,000 acres by a 1794 treaty with the state that gave them nothing in return and was not approved by Congress. The Penobscots similarly lost their lands in a series of treaties beginning in 1796.

Illegal Sales Claimed

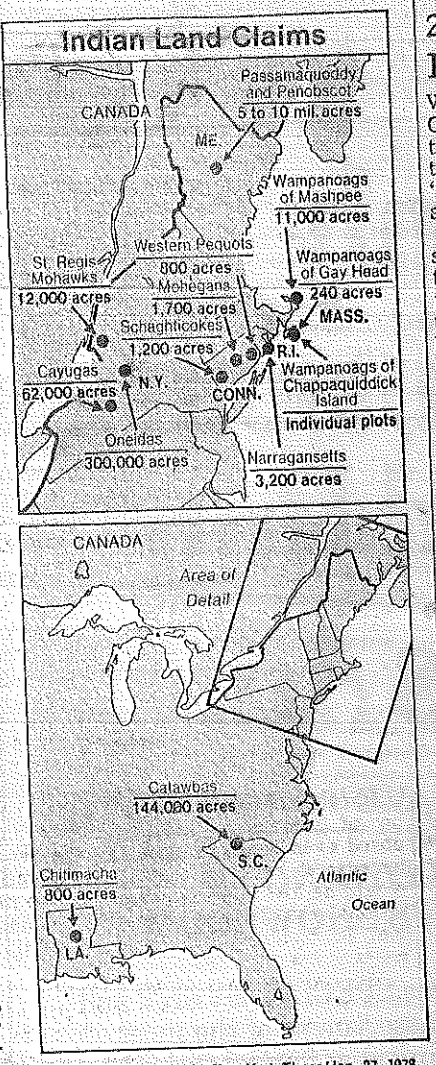
In Massachusetts, besides the Mashpees, the Wampanoags of Gay Head on Martha's Vineyard filed a suit seeking the return of 240 acres, contending that, as in the Mashpee and Narragansett cases, they were illegally allowed to sell their land to outsiders after it was declared a town in 1870.

Also on Martha's Vineyard, at Chappaquiddick Island, another group of Wampanoags are suing for the return of a number of small individual plots they contend were illegally sold.

In Connecticut, the Schaghticokes, near Kent, are seeking 1,200 acres back and have already convinced the Connecticut Light and Power Company to return 54 acres. The Western Pequot and the Mohegans are similarly claiming 800 acres in Ledyard and 1,700 acres in Montville, respectively. Indian reservations in Connecticut were allegedly sold off illegally by white overseers to satisfy debts, according to the Indians' suits.

In New York, the Oneidas are seeking 300,000 acres near the town that bears their name; the Cayugas, in the central part of the state, are seeking 62,000 acres, and the St. Regis Mohawks are seeking 12,000 acres near Watertown. In these cases, the Indians are charging that land was taken from them directly in a series of illegal state treaties.

In South Carolina, the Catawbas of Rock Hill are laying claim to 144,000 acres guaranteed to them first by the English Crown and later by the state. The Indians claim that in the mid-19th century the state began leasing out their land and over the course of time the leases illegally became considered deeds. In Louisiana, the Chitimacha tribe is seeking the return of 800 acres.



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