

New London Court Native Americans Collection, 1698-1855
Judicial Department
State Archives Record Group No. 003

History

The New London County Court Native Americans Collection is an artificial compilation of photocopies of cases involving Native Americans from the *Files* and *Papers by Subject* series of New London County Court records from the end of the seventeenth century to 1855.¹ All originals have been retired and second photocopies have been inserted in the places where the originals were once located.

New London County was the home of four Indian tribes – the Mohegans from New London, later Montville; Niantics of Lyme; Mashantucket Pequots of Groton, later Ledyard; and the Eastern Pequots of Stonington, later North Stonington. The region held the largest concentration of Native Americans in Connecticut and, as one might expect, the documentation on them is far more extensive than that for tribes in other parts of the colony/state.

Research Note

Persons are identified as Native American and included in this collection if they meet one or more of the following criteria. First, the record states that the individuals are Indian. Second, they bear a Native American surname, like Hoscite, Job, Nedson, or Uncas. Third, they are so identified by a secondary source. This compilation, however, represents an undercount of people with Native American blood because many that genealogists may classify as having Indian blood are identified in court records as black, colored, mulatto, or even Negro. Those searching for persons of interest, therefore, must also examine the companion collection, *New London County African Americans and People of Color Collection, 1701-1854*.

Scope and Content

The collection consists of records of 396 records concerning Native Americans from New London County and environs, 360 from *Files* and 36 from *Papers by Subject*. Two hundred and forty-eight are located in *Files* for the period 1698-1774 and 16 in *Papers by Subject*, the corresponding figures for the post-Revolutionary period are 112 and 20. The decline in the number of records for Native Americans in the period from 1781-1855 clearly reflects the decline in Indian population in the region from a little over 1,000 in 1774 to around 200 eighty years later.

The Native American is not identified, even by first name, in 30 records. In 79 other lawsuits, they are identified by first name and as an Indian, while in the remaining 287 cases they are identified by first name

¹ Records for the New London County Court are divided into four major series – *Dockets*, *Trials*, *Files*, and *Papers by Subject*. The New London County Court records were transferred to the Connecticut State Library in 1921. For more information, on the history of county courts and these records, please see the finding aid for *New London County. County Court. Files, 1691-1855*.

and surname.² Seventeen surnames account for a total of 159 of 287 named individuals.³ One hundred and eighty-eight different Indians are represented for the colonial period and another 88 for the later period.⁴ Just over 40% of Native Americans are identified by tribal affiliation – Mohegan (108), Niantic (20), Mashantucket Pequot (18), Eastern Pequot (4), Narragansett (1), and Pawtucket (1).

Genealogists and historians studying people of color in southeastern Connecticut are fortunate to have access to *Black Roots in Southeastern Connecticut*. This outstanding work provides a frame of reference to help determine what number and percentage of persons located in the records for the New London County Court can be found in this work.⁵ Of 188 named Indians found for the period to 1774, only 60 appear in *Black Roots*, and just 30 cases are listed in that source. For the years from 1781-1855, eighty-eight new Native Americans are found in court records, around 60% of whom are represented in *Black Roots*.

Unlike African Americans, the vast majority of Native Americans were free, although some are identified as servants, and it cannot always be determined if the phrase refers to a free person or someone permanently in servitude. A series of cases from the colonial era, numbering around thirty, concern Indians as servants.⁶ Eighteen cases take place between the years 1714 and 1729, while the remaining dozen are spread out between 1736 and 1771. The earliest such cases date from 1714 and 1715. In November 1714, *John Shackmaple* of New London v. *William Starke* of Groton, the plaintiff accused the defendant of illegally taking away his “Indian Servant boy Named Tom” and asked for £50 damages.⁷ One year later Daniel Allen, Jr. of Boston sued Peter Fannen, “An Indian man, late of New London,” on a plea of covenant broken. The defendant had apprenticed himself to Allen in July 1712 for three years to learn the trade of mariner, yet had run away from his master in May 1713. The plaintiff asked for £50 damages.⁸ In the first example, it cannot be determined if Tom was a servant or a slave. Since Tom was a boy, he may have been bound to the plaintiff until he reached twenty-one. Peter Fannen, however, was free and he had voluntarily apprenticed himself to Allen to learn a trade.

In some cases, the stronger evidence indicates that some Native Americans in Connecticut were enslaved in the eighteenth century. One such case occurred in June 1739, *Samuel Richards v. Cesar*, “Mustee or Indian or Slave.” Cesar had left the service of Richardson in New London and Cesar argued that he should not be held “in Service as a Slave because he . . . [was] born of a Squaw Named Betty who was a Cap[tur]e in the Late Indian Warr & not a Slave.” Represented by two of the leading figures of the New London County bar, John Lee and John Curtiss, the plea of the defendant was deemed sufficient, but the plaintiff appealed the decision.⁹ The court heard the case of *Richard Lord v. James Ely*, both of Lyme, in

² Sachem is considered a surname, as in Cesar Sachem, and so is Uncas.

³ Apes (8), Ashbow/Ashpo (14), Cooper (17), George (4), Hosscote (12), Job (5), Ned/Nedson (4), Nonsuch (4), Occum (5), Sachem (10), Shantup (7), Shelley (9), Shon (4), Simons (8), Tantaquigeon (4), Uncas (35), and Waggs/Wyogs (6). Variations exist in the spelling of surnames.

⁴ Mulatto is used in nineteen no surname cases in the New London Court African Americans Collection. Probably most had a mixture of Indian and Negro blood. The court records generally provide the racial identification upon which these figures are based, but racial identity becomes more difficult to determine in the eighteenth and nineteenth centuries due to the extent of intermarriage between the two groups. It is possible, however, that someone who the court classes as a Negro may have Indian blood.

⁵ Barbara W. Brown and James M. Rose, joint authors, *Black Roots in Southeastern Connecticut, 1650-1900* (Detroit: Gale Research Co., 1980). Data was gathered and compiled from census, church, justice of the peace, land, pension, probate, town, and vital records, plus account books and some reference to the volumes of *Trials* in court records.

⁶ The cases are found under a variety of subjects, including covenant broken, departed service, indenture, runaways, and sale of Indian servant.

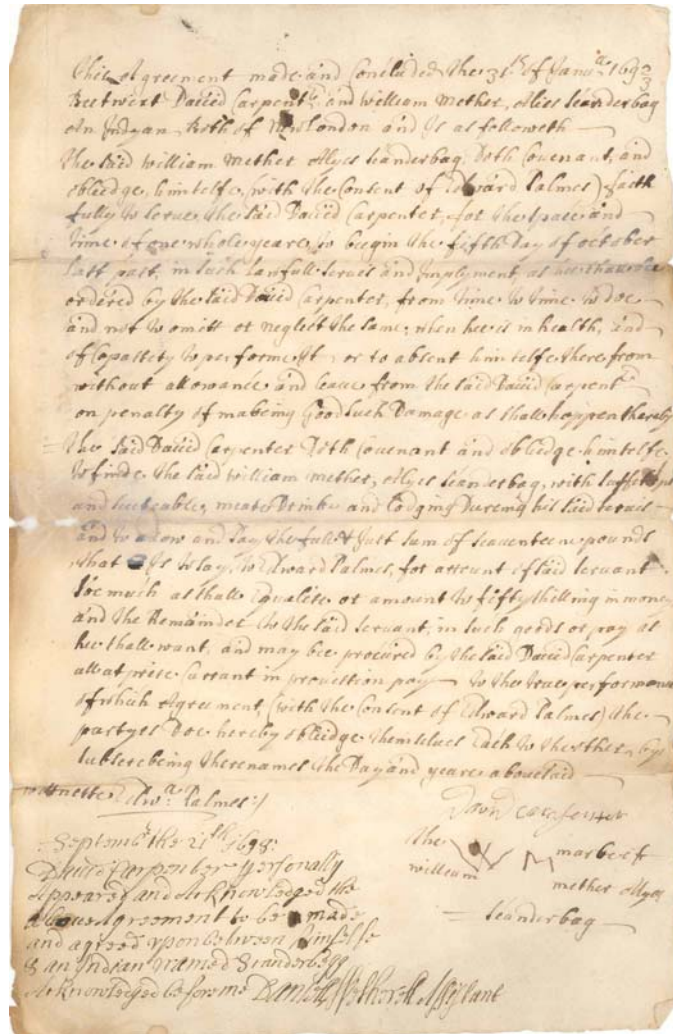
⁷ New London Court Native Americans Collection, Nov. 1714, Box 1, folder 6. The plaintiff withdrew the lawsuit.

⁸ Nov. 1715, Box 1, folder 8. Both sides presented their cases to the court, but no evidence exists as to the disposition of the case.

⁹ June 1739, Box 1, folder 39. The two attorneys argued that although Betty, a Pequot Indian, had surrendered herself to the colony government in 1676, she was never a slave because the legislature in

June 1757. Lord accused Ely of enticing Zacheus Molatto, "a Slave for Life," to depart the plaintiff's service. Despite a deposition from an elderly man from Southampton, Long Island that Jane, the mother of Zacheus, was "a free wench" captured in the Narragansett Indian war, the plaintiff recovered £55 damages.¹⁰

Illustration 1



Agreement between David Carpenter and William Mather, alias Scanderbeg for services as servant, 1698.¹¹

October 1676 declared that all those surrendering could "not be Sold . . . for Slaves" and that Betty was only subject to service for ten years. See also, J. Hammond Trumbull, ed., *The Public Records of the Colony of Connecticut*, Vol. II (Hartford: F. A. Brown, 1852), 296-98.

¹⁰ New London Court Native Americans Collection, June 1757, Box 2, folder 5. Indians were held at least temporarily as slaves in the following cases, *John Winthrop v. William Walsworth*, June 1721, Box 1, folder 18; *John Winthrop v. William Walsworth*, Nov. 1721, Box 1, folder 18; *Daniel Lester v. Jonathan Rogers*, June 1722, Box 1, folder 20; and *Stephen Gardiner v. Cesar & others*, Nov. 1743, Box 1, folder 44.

¹¹ Sep. 1698, Box 1, folder 1.

In the remaining cases in which Native Americans are identified as servants, they appear to have been indentured servants for a specified term of years. To cite just one example, the June 1729 county court heard *John Williams v. John Hopson and John Hopson, Jr.* The plaintiff from Stonington accused the Guilford defendants of assaulting him and taking away “his Indian Servant man called Peter Simon who was his Servant by Indenture for a time then not Expired.”¹²

A number of other subjects are represented in the lawsuits for the colonial era. They include debt (102 cases), theft (23), assault (14), land ownership (10), trespass (10), indenture (9), covenant broken (8), and suits for unpaid wages (5). For the same subjects for the later period, the figures are debt (36), theft (8), assault (25), trespass (7), covenant broken (2), and unpaid wages (1).

The largest number of lawsuits involving Indians concerns the subject of debt. Native Americans served as plaintiffs in 14 cases, defendants in 83, both plaintiffs and defendants in 4, and mentioned in 1.¹³ Indians sued for debt in just ten lawsuits. The first took place in 1759 when Ishmael Indian sued Thomas Allen in a debt by book for £8-2-4½. The plaintiff withdrew the suit.¹⁴ Plaintiffs withdrew their lawsuits in six cases and recovered judgment from the defendants in the remaining four. In one such case, *Moses Mazeen v. Gideon Fitch*, the plaintiff sued for £15 damages in a debt by note. The defendant defaulted and Mazeen recovered judgment for £13-2-7 debt plus 18 shillings costs.¹⁵

In the vast majority of cases, however, Native Americans appeared as defendants in debt cases, a clear indication of their societal position at the lower end of the economic ladder. Indians enjoyed some success in defending themselves against such lawsuits due to a colony statute stipulating that, “no person shall be allowed or admitted to prosecute . . . any action of debt or detinue, for any goods which shall be sold, lent or trusted out to any Indian or Indians whomsoever.”¹⁶ In the June 1768 case of *Amos Smith v. Samuel Ashpo* of New London for a debt by note in which the plaintiff sued to recover £18 damages, the defendant, “a native of the Mohegan Tribe of Indians,” argued that the action against him “ought to be bar’d” because according to the Colony’s Law Book “no person could recover judgment against any Indian for Debt or of the Case for any Goods Lent or Trusted out To Any Indian or Indians Whatsoever.” The plaintiff withdrew the lawsuit.¹⁷ This defense, however, did not prove to be universally successful for in June 1771, *William Swan v. Felix Shon* of Stonington, the defendant was unable to pay a debt totaling £25-2-9 and he was assigned to the service of the plaintiff for two years.¹⁸ Jacob Hoscot, another Mohegan, tried the same defense. He had willingly signed a debt by note, but his lawyers stated that Hoscot could not be sued for “any Action of Debt or detinue . . . as per Statute at Large.” Lawyers for the plaintiff successfully argued that the note was for labor and he recovered debt and costs of £8-6-1.¹⁹

¹² June 1729, Box 1, folder 30.

¹³ Both plaintiff and defendant: *John Quequockum v. John Simon*, June 1728, Box 1, folder 29; *Samuel Uncas v. Ben Uncas*, Nov. 1737, Box 1, folder 37; *Rachell Robin v. Samuel Aspow*, June 1763, Box 2, folder 18; *Henry Quoquid v. Zachary Johnson*, Nov. 1766, Box 2, folder 26.

¹⁴ *Ibid.*, Feb. 1759, Box 2, folder 7. In a related case that was also withdrawn, Ishmael stated that he had served as mariner on board the privateer *Defiance* and that he was not paid his prize share of £40. *Ibid.*, Feb. 1759, Box 2, folder 8.

¹⁵ Feb. 1769, Box 2, folder 29.

¹⁶ Passed in October 1724. Charles J. Hoadly, ed., *The Public Records of the Colony of Connecticut* Vol. VI (Hartford: Case, Lockwood & Brainard, 1872), 493. A later state law book provided the following language: “That no Judgment shall be rendered against and Indian for any Debt, or any Contract, except for Rents of Lands hired and occupied by such Indian.” *Acts and Laws of the State of Connecticut* (Hartford: Hudson and Goodwin, 1796), 238.

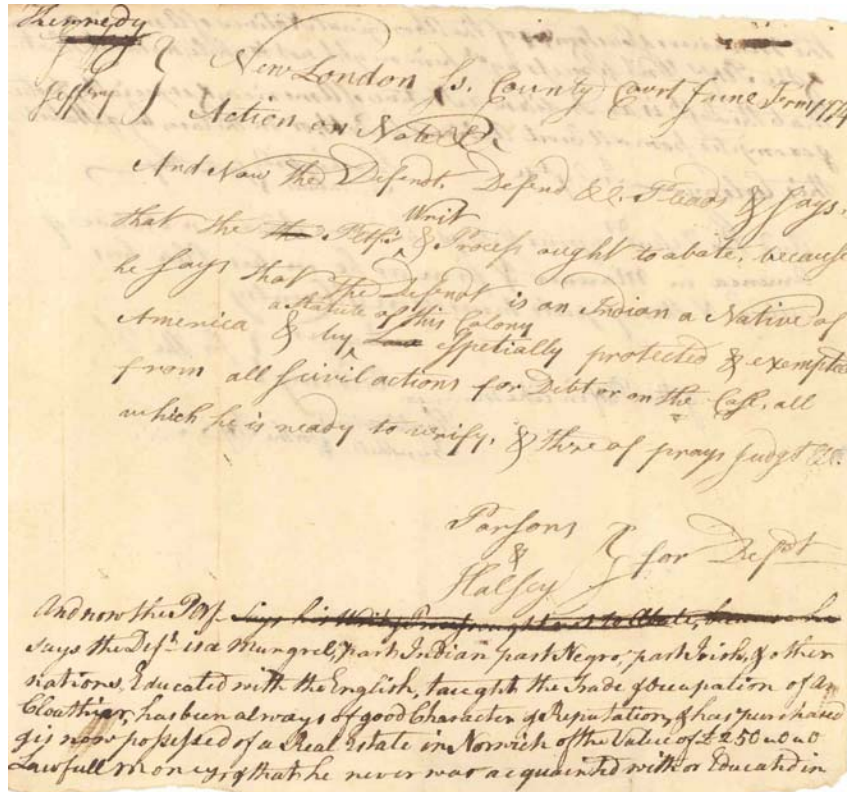
¹⁷ June 1768, Box 2, folder 28.

¹⁸ June 1771, Box 2, folder 33.

¹⁹ *Benjamin Gray v. Jacob Hoscot*, June 1766, Box 2, folder 23A. At the same session, *Benjamin Gray v. Benjamin Uncas*, in another suit for debt, the defendant defaulted and the plaintiff recovered £13-10-1. *Ibid.*, Box 2, folder 23A.

The last person to pursue this defense prior to the American Revolution was James Jeffery. The June 1774 county court heard the case of *Benjamin Kenady v. James Jeffery* in a debt by note for £18-16. Lawyers for Jeffery asserted that the writ should be abated because he was “an Indian . . . & by Statute of this Colony espetically protected & exempted from all of civil actions for Debt.” The plaintiff’s lawyers responded that Jeffery was “a Mongrel, a part Indian, part Negro, part Irish, & other nations, Educated with the English . . . now possessed of a Real Estate in Norwich of the Value of £250.” The plaintiff withdrew the lawsuit so it cannot be determined which side had the better legal arguments.²⁰

Illustration 2



Arguments in Benjamin Kenady v. James Jeffery.²¹

The debt cases involving Native Americans for the post-Revolutionary era represent just 23% of the total and end in 1820 with two exceptions, an 1826 lawsuit by the overseer of the Niantic Indians suing for funds owed for the rental of tribal lands and an 1840 one instituted against the overseer of the Mohegan Indians.²² In a 1782 debt by note, Samuel Ashbow of New London sued to secure payment for the sale of a cow and calf to Samuel Bolls. The defendant defaulted and Ashbow recovered £6-10 damages and £)-16-1 costs of suit.²³ Seventeen years later William Chesebrough, 2d of Stonington sued Samuel Shelley “a mongrel or mustee man” for \$30 to balance book accounts.²⁴

²⁰ June 1774, Box 2, folder 37.

²¹ June 1774, Box 2, folder 37.

²² *Moses Warren v. William L. Paine and James Powers*, Mar. 1826, Box 3, folder 17; *Jedediah R. Gay v. John G. Fitch*, “overseer of the Mohegan tribe of Indians. Nov. 1840, Box 3, folder 24.

²³ *Samuel Ashbow v. Samuel Bolls*, June 1782, Box 2, folder 38.

²⁴ *Samuel Chesebrough, 2d v. Samuel Shelley*, June 1799, Box 3, folder 2. Found in no docket cases.

The next highest number of cases revolved around the subject of assault. Native Americans 1698-1774 were charged with assault in 10 cases, victims of assault in 2, both plaintiff and defendant in 1, and the partial cause of a fight between two whites in another.²⁵ The 1727 case of *Benajah Bushnell v. Indian Peter and Tom* saw two Native Americans accused of beating up the plaintiff's "Negro man Robin." The defendants failed to appear on their court date and, by defaulting, in effect confessed their guilt.²⁶ In 1731, the court heard the case of Richard Jacobs and his wife Mary of Voluntown against Amy Billings and Sarah Billings, daughters of Joseph Billings of Preston, and "Cattemue an Indian Squaw." The defendants were accused of assaulting "ye Body of ye sd Mary and pulled her off her horse and her with Whips & sticks Much Beat, Wound, Bru[I]se and hurt." Testimony before a Preston justice of the peace indicated that the two sides had engaged in much name-calling, with words like "whore," "bitch," and "liar" used. Although the justice of the peace bound the defendants over to the county court, the plaintiffs later withdrew their action.²⁷ In June 1738, the court heard the case of *Dom Rex v. Sam Uncas*. Samuel Avery accused Uncas, "an Indian man belonging to Mohegan," of "assaulting ye Complainant in a hostile manner." Uncas threatened and cursed Avery, pointed a cocked pistol at him, and asked if "he was willing to Die on the Spot." Uncas was arrested and jailed, but the jury found him not guilty.²⁸

The one case in which a white was convicted of assaulting a Native American was *Dom Rex v. Elisha Geer*. The King's Attorney charged the defendant, minor son of Jonathan Geer of Preston, of "Notorious Highhanded violence Committed on the Body of a Free Born Indian man named Moses an Indented Servant." Geer attacked Moses with a pitchfork and did "violently Stab the said Indian in Several places in the Body." The defendant pleaded guilty, was fined £10, and assessed court costs of £3-7-10.²⁹

Indians were involved in twenty-five such cases after the American Revolution. Two cases of assault appeared on the docket of the county court for June 1815. Hannah Brushell of the "Mohegan tribe" brought charges against her husband for a beating so severe "that she was taken up for a dead person" and Lucy Brushell, also "an Indian woman of the Mohegan Tribe," with the consent of the overseers sued Perygreen Wheeler and Topliff Wheeler for assault. The defendants were found guilty and fined \$75.³⁰ Two more cases were tried ten years later. In the first, the State prosecuted Gershom Calvin, "an Indian" from New London, for assaulting Thomas Raburn, while in the second Samuel Ingraham and Nathaniel Tracy were charged with attacking Leonard Mazine of Norwich.³¹

The third largest category of cases concerns theft, 23 from the colonial and 8 from the period after independence. The earliest theft case, *Thomas Leffingwell v. John Ashpo*, with documentation dates from 1703. Ashpo broke into Leffingwell's warehouse in Norwich and stole a large quantity of cloth and ribbons. Upon conviction, the court fined him £5 and told him to pay the plaintiff £40 damages. Unable to pay, Ashpo was sentenced to serve Leffingwell for eight years and was whipped twenty stripes on his naked back.³² In the overwhelming majority of twenty-three theft cases, Native Americans were accused of that crime. The last theft case heard in the colonial era was *John Meach v. William Martin*, "an Indian man." The plaintiff charged Martin with stealing "Three good Spanish Mill'd Dollars & a Certain writing Or Indenture . . . by which Indenture The Said Martin was Bound to the Complainant to Serve" until he reached twenty-one. The defendant absconded, was captured, pleaded guilty before a Preston justice of the peace, and committed to jail.³³ The most notable exception to this generalization is *Chaichai Indian v. Benomi Phillips*. Phillips, "a Mallattoo of Windham," was charged with stealing a bundle of beaver skins

²⁵ *George Chebuck v. Simon Quocheats*, Ibid, Nov. 1768, Box 2, folder 28.

²⁶ Nov. 1727, Box 1, folder 29.

²⁷ Nov. 1731, Box 1, folder 31.

²⁸ June 1738, Box 1, folder 38.

²⁹ Nov. 1766, Box 2, folder 25.

³⁰ *Hannah Brushell v. Lemuel Brushell*, June 1815, Box 3, folder 10; *Lucy Brushell v. Perygreen Wheeler & Topliff Wheeler*, June 1815, Box 3, folder 11.

³¹ *State v. Gershom Calvin*, June 1825, Box 3, folder 16; *State v. Samuel Ingraham & Nathaniel Tracy*, June 1825, Box 3, folder 17.

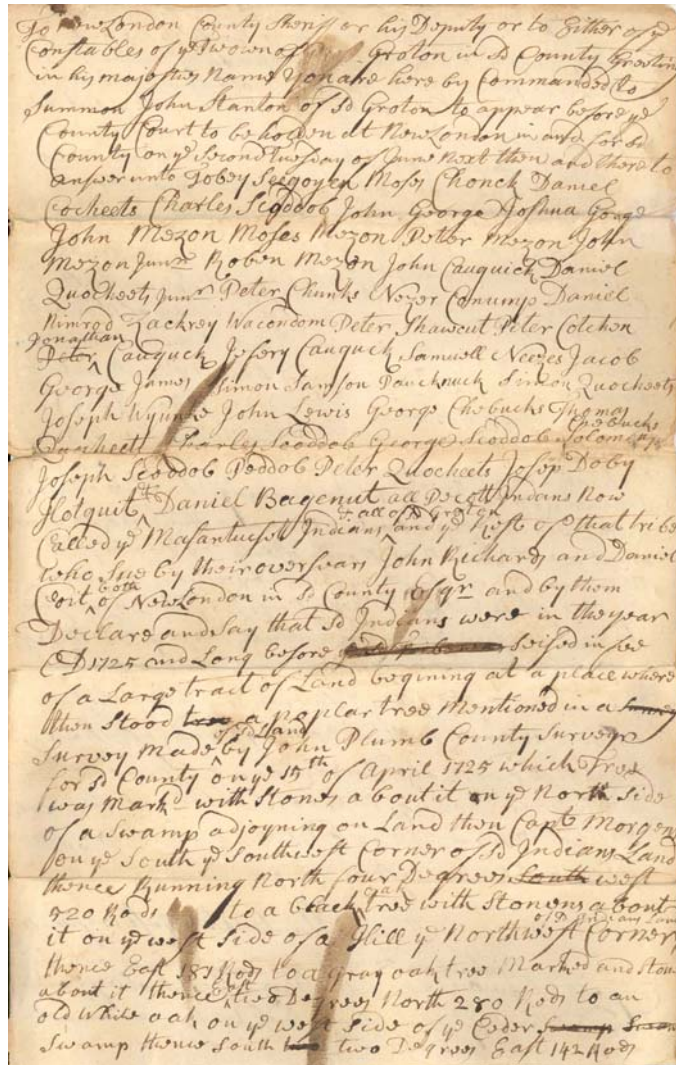
³² Apr. 1703, Box 1, folder 1.

³³ Nov. 1771, Box 2, folder 34.

from the plaintiff. The defendant claimed that he had purchased the skins from Robert Ashpo but the court did not agree. Phillips was convicted, fined treble damages of £4, and fined £2 or whipped ten stripes.³⁴

Of the small number of similar crimes during the 19th century, the prosecution of William Apes, the Native American author, for horse stealing is probably the most important. The State's Attorney charged him and Lucy Lensham, "an Indian woman" with stealing the horse of John Nichols of Preston on November 12, 1814. The case was dismissed on the grounds of insufficient evidence.³⁵

Illustration 3



Mashantucket Pequot lawsuit listing male members of tribe.

³⁴ Nov. 1712, Box 1, folder 4

³⁵ State v. William Apes, June 1815, Box 3, folder 11.

The court also heard several disputes over Native American lands in New London County.³⁶ The cases concerned white attempts to take over Indian reservation lands. The first lawsuit, *Cesar Sachem v. Ralph Fargo*, appears in the records of the November 1722 court. Sachem, Ben Uncas, and the rest of the Mohegan tribe sued by their guardians James Wadsworth and John Hall to recover land seized by Fargo. The case was withdrawn, so it is not known what happened to the land in question.³⁷ In 1757 thirty-five Mashantucket Pequots sued by their overseers John Richards and Daniel Coit of New London to recover five acres of land in Groton from John Stanton. The plaintiffs withdrew their suit.³⁸ Another half dozen cases between 1762 and 1771 revolved around an unsuccessful scheme by proprietors to take over “a tract of Land in said Groton . . . the pequod Indians have a Clame.” The seven proprietors, among them Silas Deane, hired Simeon Miner of Stonington to be their attorney in pressing their claim. Miner filed all the lawsuits in an effort to receive payment for his services.³⁹

In the nineteenth century, the court heard seven cases, all between September 1849 and February 1855, instituted by Native Americans and asking for permission to sell or to secure their rights to tribal lands. Six came from Mohegan Indians and one from Niantic Indians. The first such case was a petition from Ezekiel M. Cooper of Montville and a member of the Mohegan Tribe asking for permission to sell his reservation lands and to use proceeds to buy a small vessel. The court granted the petition.⁴⁰ In a second case, Charles D. Boheme and four other children of Betty Boheme sued to be paid for rents due for lands held as tenants in common.⁴¹ At a time when little documentation exists on Native Americans aside from overseer’s reports, these few cases provide important information.

Another group of cases concerns trespass. In one typical example, *William Wheeler 2nd v. Andrew Leffingwell*, tried before a New London justice of the peace, the plaintiff charged the defendant with “cut[t]ing and carrying away ye Grass or Hay growing on a lot of Land in Mohegan . . . known by ye name of Benjamin Uncus Sachem Mowing Orchard.” The court found the defendant guilty, required him to pay 20 shillings damages, a 3-shilling fine for breach of peace, and costs of 29 shillings and 2 pence. The defendant appealed to the county court where his lawyer argued that he had the permission of the Indians “by Leave [or] License & order of Said Benjamin Uncus” to enter and mow the grass.⁴² The *Files* for November 1769 hold the case of *Nathan Champlin v. Moses Mazzen* of Mohegan. In another case tried before a New London justice of the peace, Champlin stated that Mazzen’s livestock had on several occasions in 1766 broken through a fence and destroyed a great deal of his English grain and he claimed forty shillings damages. The defendant replied that according to a statute of the Colony, no person could legally “buy, hire, or Receive any Gift or Mortgage of any Parcel of Land” owned by Native Americans unless approved by the General Assembly. The plaintiff replied that the Mohegan tribe had had an agreement with him in 1765 allowing him to farm the land. The court agreed and ordered Mazzen to pay forty shillings damages plus court costs. The defendant appealed to the county court, the case was continued in June 1769, and then probably withdrawn, as no record exists of a court decision.⁴³

³⁶ Not included here are a series of early eighteenth-century lawsuits over control over the Quinebaug lands, then in New London County, but after 1726 in Windham County. For information on this subject, see Richard L. Bushman, *From Puritan to Yankee: Character and the Social Order in Connecticut, 1690-1765* (Cambridge, Mass.: Harvard University Press, 1967), 84-103.

³⁷ Nov. 1722, Box 1, folder 22.

³⁸ June 1757, Box 2, folder 5. This case is particularly noteworthy because it gives the names of most, if not all, of the adult male members of the tribe. Another lawsuit the next year provided a similar listing of tribal members. Feb. 1758, Box 2, folder 6.

³⁹ *Simeon Miner v. Nathaniel Brown*, Nov. 1762, Box 2, folder 17; *Miner v. Jacob Park*, Nov. 1762, Box 2, folder 17; *Miner v. John Perkins*, June 1763, Box 2, folder 20; *Miner v. Sherebiah Tracy*, Feb. 1764, Box 2, folder 20; *Miner v. Sherebiah Tracy*, Feb. 1758, Box 2, folder 28; *Miner v. Silas Deane*, June 1771, Box 2, folder 33.

⁴⁰ *Ezekiel M. Cooper Petition*, Sep. 1849, Box 3, folder 27.

⁴¹ *Charles D. Boheme, etc. v. Charles H. Cooper, etc.*, Feb. 1785, Box 3, folder 28. The case was erased from the records of the court.

⁴² Feb. 1769, Box 2, folder 30.

⁴³ Nov. 1769, Box 2, folder 32.

The most interesting trespass case from the later period dates from June 1784, *Felix Shon v. Josiah Witter & Timothy Brewster*. Shon charged that the defendants entered his house on August 5, 1781 and with force and arms threatened to take him out of state “to Be unlawfully Sold for the Term of three years to Serve in the armies of the united states of america for the Sole use & Benefit of the Defend[an]ts.” Shon sued for £500 damages, but the war was over by the time the case was heard and he only recovered £1-10 damages and £1-10 costs of suit.⁴⁴

Native Americans also used the courts to try to collect unpaid wages. In 1733 and 1734, George Jobe, “an Indian of . . . New London mariner,” sued Naboth Graves to collect £34-4-6 in wages due him as member of the crew of the brigantine *London* voyage from New London, to Ireland, Madeira, Cape Verde Islands, Surinam, Boston, and back to New London. The plaintiff failed to recover the wages claimed.⁴⁵ In February 1762, William Roe Miner of Stonington filed three lawsuits against John Stanton of Groton, captain of a company in the 4th Regiment of Connecticut forces in 1760, to collect wages due Peter Harry, Caleb Harry, and James Nod. All served as soldiers in the company and all died before receiving their wages. The three cases were withdrawn, so it is likely that the parties reach an out-of-court settlement.⁴⁶

Other subjects addressed include defamation and slander, disorders in the night season, fornication and lascivious carriage, negligence, perjury, profaning the Sabbath, riot and breach of the peace, and sale of strong drink to Indians.

The court heard four cases of fornication and two of lascivious carriage involving Native Americans, all between the years 1715-71. The most interesting fornication case was *Phebe Cheats v. Prince Negro*, June 1771. Phebe, suing for child support, affirmed that she was pregnant with “a Bastard Child Begotten of her Body in fornication” and that the father was Prince, “A Servant to Samuel Starkweather,” of Preston. Prince’s master moved for dismissal of the suit on the grounds that “Phebe Cheats is an Indian Squaw and aboriginal of America and the Said Negro Prince is an Aboriginal of Guinea in Africa . . . now Slave for Life,” and as such he could not be sued or prosecuted “in any action or Suit of this Nature & is not a Subject within the Laws of this Colony for Maintenance of Bastard Children.” The court agreed and dismissed the case, but not before imposing court costs of £1-8-2 on the plaintiff.⁴⁷ In *Dom Rex v. George Wade, Jr.*, a Lyme grand juror accused the defendant on March 19, 1757 of “Lasivious Behaviour towards Anna Hefferman . . . an Indian Woman,” specifically of enticing her to walk with him alone, of throwing her down on the ground, pulling up her skirts, and copulating with her. A Lyme justice of the peace bound Wade over to the county court. Attornies for the defendant argued in June 1757 that the event occurred after a singing meeting on March 20, 1756 and that the one-year statute of limitations had expired. The jury agreed and the case was dismissed.⁴⁸

According to colony law, no person was allowed to “Sell, Truck, Barter, Give, or Deliver to any Indian any Strong Beer, ale, Cyder, Perry, Wine, Rhum, Brandy, or Other Strong Spiritous Liquor” on penalty of a fine of ten shillings for every pint sold. In November 1761, the court heard the case of “Zachariah Johnson an Indian of the Mohegan Tribe” against Joseph Brewster of Norwich for selling one barrel of cider to John Weequott and his wife Hannah. The case was withdrawn upon agreement of the two parties.⁴⁹

⁴⁴ June 1784, Box 2, folder 41.

⁴⁵ Nov. 1733, Box 1, folder 34; June 1734, Box 1, folder 34.

⁴⁶ *William Roe Miner v. Capt. John Stanton*, Feb. 1762, Box 2, folders 14-15. In the other case, *Benjamin Hubbard v. Abell Moor*, the plaintiff, “(Indian Man) of Lyme,” sued to collect teamster wages for “driving the Kings Teams” in 1760. June 1762, box 2, folder 16.

⁴⁷ June 1771, Box 2, folder 33.

⁴⁸ June 1757, Box 2, folder 5.

⁴⁹ Nov. 1761, Box 2, folder 14. The General Court first passed legislation prohibiting the sale of alcoholic beverages to Native Americans in April 1654. James Hammond Trumbull, *The Public Records of the Colony of Connecticut*, Vol. I (Hartford: Brown & Parsons, 1850), 254-55.

On some occasions, Native Americans played only minor roles in court cases. The collection contains thirteen lawsuits in which Indians were called as witnesses, the first in 1751 when Quy Chebubley witnessed a debt by note and the last in 1846 when Thankfull Ned and Leonard Brown were called as witnesses in an assault case.⁵⁰ In another instance, Mary Maynard of Groton sued Eunice Avery for \$1,000 damages on a charge of slander. A person of chastity, Maynard stated that she was never a prostitute and had never purchased “Bitters” from Cynthia Commewas for the purpose of securing an abortion.⁵¹

One of the more interesting cases in the collection is *Willard Hubbard v. Robert Cleland*, concerning two whites from New London. The plaintiff, “School Master to the Indian Children of Mohegan,” sued for £100 damages, claiming that Cleland published “false, feigned, Scandalous & libellous words & Expressions” against him for being unfit to be in charge of the school. The court heard the case in November 1772 and the papers contain one letter from Cleland to Andrew Oliver and the commissioners in Boston for “propagating Christian Knowledge amongst the Natives of this Land” and three to the Reverend David Jewett of New London North Society.⁵² The jury found the defendant guilty and ordered him to pay Hubbard £23-10 damages and court costs.⁵³

In 1795, the New London County Court heard its first case under provision of “An Act for the Government and Regulation of Seamen in the Merchant’s Service,” passed by the Congress of the United States in July 1790, *Edward Hallam, John Hallam, & Robert Hallam v. Willard alias William Miller of Stonington*. Under contract to sail on a merchant voyage, Miller deserted before the ship left port and the plaintiffs sued. Lawyers for Miller pleaded for an abatement on the technicality that the writ was improper because he resided in Groton and had never lived in Stonington. Lawyers for the plaintiff responded by saying that Miller “has no fixed place of residence,” because he “is one of the native Indians of this State & that the tribe to which he belongs [is] spread over the Towns of Stonington, Groton & Preston.” The court agreed and Miller was told to pay £4-10 damages and £3-5-6 costs of suit.⁵⁴

In one last example from *Files* giving a hint of the documentary riches found in the New London County Native Americans Collection, “Jeofry an Indian man of New London,” along with five Rogerenes, was charged by the King’s Attorney with profaning the Sabbath, specifically with disturbing church services on November 20, 1725. Jeofry and “divers other evil minded persons” did “in a very Rude and disorderly manner armed with a Club” disturbed the congregation. One of the group did “maliciously & basely misuse the preacher or Teacher of the sd. Congregation in an open and high handed manner.” Jeofry or Jeffery petitioned the court, saying that he “was by a Corrupt and Evil mind[ed] [Person] prevailed Upon to Come into the . . . Congregation in New London” and “Humbly Crave yours honours pardon.” He was fined twenty shillings.⁵⁵

Additional information on Native Americans in southeastern Connecticut can be found in the *Papers by Subject* series of New London County Court Records. The collection contains thirty-eight new records and supplemental information on eighty-eight cases in *Files*. The new information comes primarily from four series – Costs (21), Miscellaneous (4), Revolutionary War Pensions (4), and Summons for Evidence (4). The bulk of the supplementary information is drawn from Costs and Executions.

⁵⁰ *Nathaniel Post v. Joshua Abell*, Nov. 1751, Box 2, folder 1; *State v. Mark D. Brown*, June 1846, Box 3, folder 26.

⁵¹ Nov. 1823, Box 3, folder 15.

⁵² The formal name of the organization was the Massachusetts Society for Propagating Christian Knowledge among the Indians of North America. Clifford K. Shipton, *Sibley’s Harvard Graduates; Biographical Sketches of those who Attended Harvard College*, Vol. 7 (Boston: Massachusetts Historical Society, 1945), 387.

⁵³ Nov. 1772, Box 2, folder 35.

⁵⁴ June 1795, Box 3, folder 1.

⁵⁵ Nov. 1725, Box 1, folder 26.

Materials from Costs are divided between costs of lawsuits and those of imprisonment in the county jail. One example of the former is for costs of £2-11-7 recovered by Benjamin Uncas from John Story.⁵⁶ The vast majority of costs, however, are those incurred by Native Americans sent to jail, for example, bills of \$9.22 paid in November 1833 and \$21.78 in March 1834 primarily for the board and clothes furnished Samuel Brushell.⁵⁷ From the Miscellaneous series comes a document of a fine of £1-15 imposed upon Joseph Elderkin of Norwich in 1701 for “selling Drink to Indians.”⁵⁸ The four pensions granted to Native Americans includes one for sixty-three year old James Nedson of North Stonington who stated that he served in the Connecticut Line during the American Revolution, had little property, and had an aged wife and eleven children who depended upon him for support.⁵⁹ The Summons for Evidence materials generally concern instances in which an Indian played a secondary role, as in *Dom Rex v. Jonathan Richardson* when an unidentified Indian was among three men identified as driving cattle from a field.⁶⁰

Papers by Subject also includes additional material from eighty-eight lawsuits found in *Files*. The information generally comes from the Costs and Executions series. In June 1726, as an example, Ann Ruff of New London accused Moll, “an Indain [sic] Woman,” of stealing cloth worth £11-13-5. Moll was found guilty, assessed £23-6-10 damages and court costs of £1-16-0, whipped 10 stripes on her naked back, and assigned to service because she was unable to pay the fine. Costs provide a detailed break down of costs, ones that include 6 shillings for the expense of the whipping.⁶¹ In another example, when John Johnson of Mohegan recovered judgment against Ephraim Wheeler for £1-1-8 debt and costs of suit £2-6-11, Costs again contains a detailed listing that includes expenses incurred by the plaintiff for costs taxed by the local j.p., for travel to the county court, for attendance, arbitration, attorney fees, and court fees.⁶² Executions hold the second substantial body of material to supplement *Files*. When Samuel Ward Esq. of Newport, Rhode Island recovered judgment against John and Margaret Tobee of Stonington, the writ of execution signed by county clerk Daniel Coit on November 26, 1766 directed that Tobee pay £4-0-9 debt and £2-0-9 costs of suit for a total of £6-1-6.⁶³ In an execution for a criminal case, Jeremiah Shantup was sentenced to State Prison for eight years on the charge of manslaughter for killing Lodowick Wheeler.⁶⁴

In thirty-seven cases, supplementary material is located in two series of *Papers by Subject*, usually Costs and Executions. In 1725, for example, Christopher Christophers recovered judgment against “Indian White Eyed Simon” for £2-9-1 debt and £1-2-3 costs and both in Costs and Executions contain new information.⁶⁵

The New London County Native Americans Collection contains easily accessible information of great research value, much of which has not previously been examined by researchers.

Provenance

The New London Court Native Americans Collection, consisting solely of photocopies of documents on cases involving Indians, was created to provide easier access to those researchers primarily interested in the history of these individuals and tribes.

⁵⁶ Nov. 1767, Box 4, folder 20.

⁵⁷ Nov. 1833, Mar. 1834, Box 4, folder 23.

⁵⁸ Miscellaneous, 1701, Box 4, folder 47.

⁵⁹ Pensions, June 1820, Box 4, folder 48.

⁶⁰ Summons for Evidence, June 1741, Box 4, folder 53.

⁶¹ *Dom Rex v. Moll*, June 1726, Box 1, folder 27; NLCC Trials, Vol. 15, 206; Costs, June 1726, Box 4, folder 7.

⁶² *John Johnson v. Ephraim Wheeler*, Nov. 1759, Box 2, folder 9; Costs, Nov. 1759, Box 4, folder 17.

⁶³ *Samuel Ward v. John Tobee & Margaret his Wife*, Nov. 1766, Box 4, folder 44.

⁶⁴ *State v. Jermiah Shantup*, Sep. 1835, Box 4, folder 45.

⁶⁵ *Christopher Christophers v. White Eyed Simon*, Feb. 1725, Box 4, folder 6; Box 4, folder 36.

Related Records

Related information can be found in *Dockets* and in *Trials*, particularly for the period up to about 1720, and Superior Court Records.

Access Note

This artificial collection of materials on Native Americans found in *Files* and *Papers by Subject* of the New London County Court consists of photocopies of original documents. All originals have been restricted.

Database of Cases

A database of records to the 396 cases involving Native Americans has been created. It contains fields for surname, first name, residence, date of court session, case name, subject, and tribe. It can be accessed by researchers from the Connecticut State Library website at: <http://www.cslib.org/NewLondonNA.asp>

Container Listing

1. Files

1698 – 1750 (folders 1-45)

Box 1

1751 – 1774 (folders 1-37)

Box 2

1782 – 1789 (folders 38-44)

Illustration 4

To y^e Sheriff of y^e County of New London or his Deputy or either of the Constables
 of the Town of New London in S^d County Greeting
 In His Majesty's Name you are hereby Required to Attach the Goods or
 Estate of Thomas Allen of New London aforesaid to the Value of Sixty Pounds
 in Lawfull Money & for want of Effete you are to take the Body of the said
 Allen & him safely keep so that he may be had before the sd^s County Court
 to be held at New London within 8 for y^e County of New London on y^e 15th
 Tuesday of February Next Then & There to answer unto Ismael an Indian
 Plaintiff of New London afores^d In a Plea That to the ~~Defendant~~ Plaintiff he
 the Defend^t Render his Reasonable Account of the time he the Defend^t was
 Bailiff & Receiver of the Plant^t and Receiver of the ~~Plant~~ Goods & Monies
 of the Plant^t Whereupon the Plant^t declares That in y^e Month of July
 last he was a Mariner on Board the Private Ship of War Call^d the
 Distance Michael Phillips Commander of New London afores^d and brought
 into the Port of New London afores^d the Private Ship De Vrons Vofpa
 Christopher Hartman Commander and her Cargo which Ship & Cargo was
 the property of his Majesty's Enemies before she was brought into said
 Port and S^d Phillips in Behalf of himself the Plant^t & the Rest of the Captors
 of S^d Ship & Cargo present ad libell in y^e Court of Vice Admiralty
 for the Condemnation of S^d Ship & Cargo to the Plant^t & the Rest of the
 Captors of S^d Ship & Cargo in which Court of Vice Admiralty S^d Ship &
 Cargo was Condemned to y^e Plant^t & the Rest of S^d Captors who in S^d
 New London put the same into the hands of the Defend^t as their
 Bailiff to sell & Dispose of for the Use of the Plant^t & the Rest of S^d Captors
 and the Plant^t further says that his part or share of S^d Ship & Cargo was well
 worth £40 in Lawfull Money and the ~~Plant~~ Plant^t further says that the Def^t
 in S^d New London soon after Sold & Disposed of S^d Ship & Cargo for y^e Sum
 of £10000:0:0 Lawfull Money of which Sum the Defend^t Rec^d: as
 Receiver to the Plant^t S^d Sum of £40 in Lawfull Money and to
 account with the Plant^t in a Reasonable time yet Nevertheless the
 Defend^t at all times hath Refused to Render to y^e Plant^t any account
 of S^d £40 Lawfull Money so Rec^d: nor hath he paid him any thing
 therefor (tho' often Requested) and tho' he hath had Reasonable time
 therefor: all which is to the Damage of the Plant^t the Sum of £40:0:0
 in Lawfull Money and thereof the Plant^t brings this Suit and Demands of
 the Defend^t his Reasonable account together S^d Damages & his Costs: and
 not to make due Return here of according to Law (Bond sufficient for Def^t
 execution being given) Dated at New London the 6th Day of January 1759
 Daniel Coit Clerk

Ishmael Indian v. Thomas Allen,
 Unsuccessful lawsuit to recover prize money from privateering voyage.⁶⁶

⁶⁶ Feb 1759, Box 2, folder 8.

1793 – 1855 (folders 1-33)	Box 3
2. Papers by Subject	
Conservators and Guardians, 1820 (folder 1)	Box 4
Costs, 1716-1850 (folders 1-30)	
Court Expenses, 1731-1840 (folder 31)	
Executions, 1716-1845 (folders 31-46)	
Inquests, 1786 (folder 46)	
Miscellaneous, 1706-20 (folders 46-47)	
Pensions, 1820 (folders 48-49)	
Summons for Evidence, 1712-67 (folders 49-54)	