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Review of *Indian Depredation Claims, 1796-1920* By Larry C. Skogen

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Indian Depredation Claims, 1796-1920. By Larry C. Skogen. Norman: University of Oklahoma Press, 1996. Photographs, graphs, table, map, notes, bibliography, index. xx + 290 pp. \$34.95.

Hoping to avoid violent incidents and possible warfare along its frontiers, the fledgling United States government established in 1796 a system for dealing with depredation claims. It provided the machinery through which both Indians and pioneers could apply for indemnity for losses incurred as a result of their dealings with each other. Despite such benign goals, the machinery seldom operated as envisioned. The claims process, too slow to prevent recurring violence, was so fraud-ridden that even honest claimants had to run a gauntlet of suspicious officials to have their cases considered. As a result, Larry Skogen states, throughout its entire 124 year history the process did little more than "clog the machinery of the federal government." He uses this discussion of depredation claims to illustrate the nineteenth-century shift in American tort law from strict liability and sovereign immunity to negligence and the right of private citizens to sue the federal government. This book, then,

combines the study of federal policy with that of shifting currents in the national legal system.

Beginning with early treaties, some written before the Constitution, the United States promised to punish pioneers who committed crimes against Indians and demanded that tribes surrender their people who committed similar acts against whites. Gradually that effort evolved into a formal claims system. Working through the War Department, and after 1849 through the Interior Department, Indian Office personnel gathered evidence, took claims papers, and sent their findings on to Washington. There the evidence rarely persuaded officials to offer damages. Except for some 1834 claims paid to people in Missouri and Georgia, the system frustrated everyone. Finally, in 1891 Congress gave jurisdiction over Indian depredation claims to the United States Court of Claims where it remained until 1920 when the system shut down.

Based on monumental amounts of archival research, Skogen's narrative follows the evolving depredations claims system down into the early twentieth century. The author has taken what might appear an arcane subject and placed it clearly within the context of national political and legal developments. In lucid, interesting prose he supports his central theme that the claims process never functioned as planned. By the last third of the nineteenth century most of the benefits for claims litigation went to claims agents, lawyers, or law firms, not to Indians or pioneers for whom the system had been established. Skogen shows that the generally accepted idea that citizens could not sue the federal government prior to the 1946 Federal Tort Claims Act is false. In fact, some three decades of claims litigation had occurred under the 1891 Jurisdictional Act, long after the original purpose of the claims system—keeping peace on the frontier—had ceased to be relevant.

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