TITLE:
Legalized Swindling of Indian Land and the Aftermath: The General Allotment Act of 1887

By:
Jessica-Maris Bautista-Jackson Wallag

Presented to the American Culture Faculty at the University of Michigan-Flint in partial fulfillment of the requirements for the Master of Liberal Studies in American Culture

April 29, 2018

First Reader:

Second Reader:
Table of Contents

Introduction 3  
I. Setting the stage 5  
   Beginnings 7  
   Treaties 13  
   Marshall Trilogy 16  
   Federal Power 20  
II. General Allotment Act of 1887 22  
   Solution to the land problem 22  
   Economic self-sufficiency & American assimilation 23  
   Citizenship for American Indians 26  
III. Reality and Results 27  
   Best allotments of land 28  
   Forced assimilation 28  
   Termination of tribal life and government 30  
   Economic failure and Land forfeiture 30  
   Violation of Indian rights and treaties 32  
IV. Aftermath 34  
   Meriam Report and accountability 35  
   Tribal sovereignty 39  
   Ongoing land and resource conflicts 41  
   Discrimination and Deception 45  
V. Conclusion 50  
Bibliography 52
Introduction

The General Allotment Act of 1887 was constructed as a solution to the obstacles that hindered western expansion, fabricated as a guise of bestowed benevolent opportunity for individual economic self-sufficiency steering to American assimilation, and guaranteed a path citizenship to American Indians. In veracity, this resulted in the duplicitous swindling of previously displaced Indians out of millions of acres of land in order to procure the best lands for Anglo American citizens, violating Indian rights and treaties, forcibly assimilating American Indians in an effort to annihilate their way of life, undermining tribal sovereignty in an attempt to terminate tribal life and tribal government all together, and establishing a system that deliberately sentenced American Indians to inevitable economic failure, catastrophic land forfeiture and devastating cultural loss. The aftermath of the General Allotment Act of 1887 created a convoluted and problematic relationship between the federal government and tribal governments, established a perplexing regulated authority of tribal sovereignty, reinforced a prolonged history filled with discrimination and deception for American Indians, and perpetuated the conflict over land rights and resource claims.

The American federal Indian policy was driven by the goal of "civilizing the Indians" according to Matthew T. Gregg and D. Mitchell Cooper's "The Political Economy of American Indian Allotment Revisited." (Gregg & Cooper 90). The plan was to force Indians to conform to Anglo American life and culture. Genetin-Pilawa’s scrutinizes the "crooked path" of federal Indian policy and coercive practices in post-Civil War America through the examination of land allotment, forced assimilation, and mandatory Christian schooling for children. American Indians lived with the belief that land was shared while American citizens believed that communal lands would prevent Indians from knowing “benefits of civilization and “Without
allotment and assimilation... Indians were doomed to extermination.” (Bobroff 2). Mark J. Swetland explains that the Dawes Act was indeed a means to enforce an ethnocentric idea of Anglo American civilized culture through breaking up communal societies and turning Indian Reservation Land into individual parcel allotments. (Swetland 201). Brad Tennant explains that though Native Americans were expected to assimilate through language, clothing, and way of life, they were still treated like second-class citizens, especially in their constitutional rights. Tennant goes on to assert that problems arise from lack of consistency in the federal government’s approach of Native American legal status. (Tennant 24). The Federal government stood behind white settlers when they encroached on Indian lands by ratifying invasions through the renegotiation of treaties that would take away lands that were reserved for Indians. (Bobroff 4). Rose Stremlau calls the Dawes act a “system of legalized swindling.” (Stremlau 71). The General Allotment Act of 1887, also known as the Dawes Act took the land that already belonged to American Indian tribes and divided it into individual allotments while making sure a large portion would be left over as available surplus land for white settlers. The results were catastrophic for American Indians. The system was designed to fail and failure would lead to more land passing into the hands of Anglo American citizens.
I. Setting the stage

The history between Indians and the American government is one with many flaws and shameful events. ACLU Senior Staff Attorney, Stephen Pevar outlines not only the rights of Indians and Tribes in his book *The Rights if Indians and Tribes*, but also the problematic history that has evolved into the current complex situation for Native Americans in modern day America. Pevar begins recounting the history of Native Americans when Europeans first arrived and there were more than 400 independent nations were prospering in North America but decreased by 70% by 1900 after centuries of war and disease. (Pevar 1). Geisler asserts that from the sixteenth century to the twentieth century, the aboriginal population dropped from between 2 to 20 million to 530,000 (qtd. in Ubelaker 1988). (Geisler 61). William Hagan's *American Indians*, updated by Daniel M. Cobb is considered a “standard histories of the subject” of Indian-white relations because of its concise account. Cobb indicates that the 2010 United State census reveal that there are 5.2 million people that identify as Native Americans. (Cobb and Hagan 167). Population in relation to assigned allocations of land will be an important overlooked factor during the drafting of the General Allotment Act of 1887. It is a complicated status to be an original inhabitant of a land in a country that considers you a foreign non-citizen.

In its original formation, American Citizenship was established during the birth of a democratic nation that had no king and no subjects. Swiss philosopher, Jean-Jacques Rousseau defined sovereignty as citizens collectively voicing the general will and the laws of the state. Rousseau stressed the dispute between Sovereignty and Authority when he claimed that the “mistake comes from having no precise notion of what Sovereign Authority is, and from taking mere manifestations of Authority for parts of the authority itself.” (Rousseau 71). The British Colonies of North America collectively voiced their will to become their own sovereign nation
through the American Revolutionary War. The United States of America was born as a
democratic nation and instead of subjects loyal to a royal sovereign, its people would become
citizens of America loyal to themselves and dedicated to their American democratic ideals. The
ideas of equality and liberty for all or most was the foundation of the United States. The
contradiction remained that the United States was founded on giving freedom to and
opportunities to people that were settling on land owned by Native American Populations
essentially robbing them of those same freedoms to and opportunities that they sought for
themselves. This newly established American nation created laws that allowed theft of land and
displacement of tribes. American values and ideals have been clearly and continuously
contradictory as it has robbed lands through force, coercion, and manipulation, prohibited
religious freedoms, inhumane treatment, often creating and trapping Native Americans in
practically inhabitable environments, and even slaughtered innocent people. Citizenship was
only granted to Native Americans ninety three years ago and it was accompanied with a long list
of stipulations and conditions that still hinder the socioeconomic progress of Native American
Populations. This forced citizenship assuredly eliminated any means or opportunity for self-
sufficiency through the destruction of their way of life. This granted American citizenship
required a forced assimilation of the Anglo American way of life that religiously persecuted
Native Americans, prevented them from speaking their own language, abducted children forcing
to go to Indian Schools, and a blatant attempt to completely wipe out entire Native American
cultures. There is a history of Native Americans deprived of guaranteed rights that their
American Citizenship entitles them to. The lack of provision and protection of these inherent
rights fails to uphold the original intent of the democracy they belong to. Native Americans still
face discrimination, oppression, and a lack of opportunities for socioeconomic progress as their
rights go unprotected and at times stripped from them through the same government that granted
them citizenship. There is also an ongoing struggle to preserve the natural resources that are
often endangered their land that is accompanied by complicated rights that prevent progress.

The ideas of equality and liberty for all or most was the foundation of the United States.
Though “equality” was deemed as an American democratic value, its true definition left out the
majority of its inhabitants. American Indian studies professor and author K. Tsianina
Lomawaima explains that Native American Indian preceding occupation of North America along
with their “pre- and extra-constitutional inherent sovereignty” still left them excluded them from
the Constitution as well as the social contract. (Lomawaima). This fact is worth noting because
Native American Indians played a role not only in America’s war for independence, but also in
the democratic foundations in its early days of forming a government.

Beginnings

Pevar points out the early European settlers’ lack of awareness of the long established
organized and complex system of tribal governments. The six powerful Indian tribes that were
part of the League of Iroquois already had a written constitution pre-European contact. As an
internationally recognized scholar of Native American law and policy and Dartmouth professor,
N. Bruce Duthu sheds light on the Native American liberties in American Indians and the Law.
Duthu stresses how the Iroquois Confederacy “developed one of the earliest and still influential
models of governance and intergovernmental relations” in this hemisphere and how their Great
Law of Peace identifies the distinct nationhood of each tribe as it “embodied principles of respect
for distinctive cultures.” (Duthu 192). Duthu finds that they emphasized a philosophy for
peaceful coexistence, forged alliances in order to protect their autonomy, and tribal rights to
inherent sovereignty.” (Duthu 192-93). Pevar notes that the Six Nations Iroquois Confederacy’s
democratic concepts as initiative, referendum, and right to vote were used as a model to frame the United States Constitution. (Pevar 84-5). Duthu underlines how Benjamin Franklin approved of how a union of six nations of “ignorant savages” could “execute it in such a manner as that it has subsisted for ages, and appears indissoluble” and that John Adams urged other political leaders to examine how the Indian government structure supported the notion of a democratic legislative structure with separation of political powers where “real sovereignty resided in the body of the people.” (Duthu 194-95). Roxanne Dunbar-Ortiz’s *Indigenous Peoples’ History of the United States* describes how the Great Law of Peace with its principles of peace, equity, justice, unity and using intellect to avoid warfare inspired elements of the US Constitution. (Dunbar-Ortiz 26).

Most American Indian tribes believed land belonged to the entire community as a communal property and supported the principle of the community working together to harvest from the land. (Stremlau 268). Geisler asserts that Indians treated land as part of their identity and not a commodity to be exchanged for money (qtd. Deloria 1984; Lytle 1984; Bobroff 2001). (Geisler 63). Anglo-Americans introduced them to the values that glorify accumulation of individual wealth along with private ownership of property. (Pevar 98; Stremlau 265). Conflicts between America and Native American Indians almost always revolved around land and resources. Woodard explains that only 2 percent of the adult male population in Great Britain during the eighteenth-century owned individual property along with the liberties that came with it. (Woodard 19). Before America had declared its independence from Great Britain, it had already began to push westward for more land. After the British won the French and Indian War, King George III tried to prevent further conflict between Native Americans and colonists. (Holton 7).
The Proclamation of 1763 was created by King George III that drew an imaginary border that the colonists were not allowed to cross. (Ablavsky 1011). This hindered colonists from securing the title of land to preliminary grants, but it did not stop them. Ignoring the Royal Proclamation that was meant to protect Indian lands, colonists ignored the law and continued what they had been doing for almost a century: “invading Indian territory and stealing Indian land.” (Echo-Hawk 5). Ablavsky describes the Indians as ubiquitous and that they were important to the United States because of trade and land. Though most Indian tribes sought to stay neutral during the American Revolution, some factions who fought with the British would become targets and victims of brutal attacks by American citizens. (Ablavsky 1013).

In The Savage Constitution, Ablavsky examines the influence Indians had in the creation of the Constitution as well as the failure of the Articles of Confederation in regards to the Indian policy. Federal treaties were declared supreme law in the Indian Commerce Clause. Ablavsky highlights that though states were barred from making new treaties and the federal government would be given control over western territories, states were guaranteed federal protection for their land claims in the west. (Ablavsky 9999).

The Constitutional Convention of 1781 decided that Congress would regulate commerce with the Indians and that they would not be taxed. At the same convention, James Madison declared that the state of Georgia’s acts to end treaties and war against the Indians was blatant defiance towards the Articles of Confederation and this supported his argument for an expansion of federal authority. Alexander Hamilton also supported a stronger federal government in order to protect the “western frontier against the savages.” (Ablavsky 1001). According to Jean Schroedel and Ryan Hart, James Madison accuses the Articles of Confederation of being “‘obscure and contradictory’ with respect to dealings with tribes.”
Article I, Section 8 gave Congress the power to control trade between American Indians and other nations. (Schroedel & Hart 44).

Ablavsky argues that power granted to the federal government was influenced by the perceived need for a stronger national army to protect citizens from Indians and it would be financed through direct taxation. (Ablavsky 1001). Article IX provided Congress exclusive rights to regulating trade and gave them complete responsibility over all Indian affairs. Ablavsky reveals that Congress claimed Indian land conquest because they did not have the money to purchase it and with war debts unpaid, it made sense to pay war veterans with land grants. (Ablavsky 1015-6).

The American Constitution is complicated because it created freedoms, yet it did not provide those freedoms for all inhabitants living in America. Though Smith considers the American Constitution to be unique, he argues that its brevity and ambiguity forces the creation of the Bill of Rights and Amendments because the Constitution is "virtually silent on the social and economic rights found in many later constitutions." (Smith 17). Smith claims that some view amending the Constitution as antidemocratic and that the lack of "social and economic protection" is anomalous and anachronistic. (Smith 25). The American Constitution in its origin was about 4400 words and its vague wording added to the conflict of rights because it was so ambiguous. (Smith 17). Though the concepts of "Consent of the governed" and "Limited government" helped it become ratified, the Constitution's obvious silence on slavery made it complicated to clarify its stance on it. (Smith 21). Smith points out that the ideas of liberty and freedom that America was built on was also the same "society which egregiously abused the rights of African-Americans and Native Americans and which marginalized women and other groups." (Smith 8).
The writers of the Constitution only mentioned American Indians in reference to Congress and its control of commerce. (Hagan 36). The Articles of Confederation used explicit wording to assert that trade with Indians would be controlled by Congress and not the thirteen states. (Hagan 31; Tennant 26). In Colin Woodard’s *American Character*, Woodard reminds readers that Jefferson believed that citizenship was only for those that were economically independent because only self-sufficient individuals were capable of making civic decisions. (Woodard 98). This excluded Native American Indians, even the ones that had such a great influence on the US Constitution. Western expansion policies during the 18th and 19th centuries placed increasing pressure on the U.S. government to remove tribal members from lands desired by European Americans. (Schmidt and Peterson). Andrew Fisher explains in *Nipo strongheart and the campaign for American Indian citizenship* that Native Americans have an “ambivalent relationship to U.S. citizenship” and that most tribes “resisted their forcible incorporation into the United States between 1783 and 1890.” (Fisher). American Indian studies professor K. Tsianina Lomawaima indicates that American Indians were forced to decide between being subjugated as Indian wards or the false illusion of citizenship. (Lomawaima).

American historian Joseph J. Ellis explains that the gradual, staged expansion of American settlements was chosen as an indirect form of American imperialism was a “more cost effective and palatable version of genocide that permitted republican principles to coexist, albeit uneasily, alongside Indian extinction.” (Ellis 133). In 1786, Congress enacted an ordinance that clearly stated that Indians were not members of any states and they had the “sole and executive right” to regulate trade and manage affairs with the Indians. (Ellis 133). Constitutional confusion was also created when Congress authorized its own claim to jurisdiction but sanctioned the other separate state treaties that were in the process of negotiation. (Ellis 134). Conflicts between
individual states and tribes arose when states became greedy for land and took matters into their hands. North Carolina and Georgia attempted to push Indians out and the conflict became violent. (Ablavsky 1031). Congressional treaties were ignored and Indians turned to violence after Congress refused to step in. (Ablavsky 1033).

In 1787, George Washington’s Secretary of War, Henry Knox reported that Indian violence was a result of broken treaties and usurpation of lands by states. In 1789, he pleaded that the conquest theory that considered Indians east of the Mississippi as “tenants at will” violated the “republican principles that he and Washington had fought for in the late war.” (Ellis 135). Seeking clarification on the interpretation of wording that gave federal authority over Indian policy, Knox challenged the legal and moral implications of the strategy of Indian removal. He claimed that there was a matter of principle and honor and a “genuine republic could not function in the manner of European empires.” (Ellis 136). Ellis highlights that Knox’ argument of the US policy towards Native Americans was “nothing less than a direct repudiation of the values embodied in the American Revolution.” (Ellis 136). Ellis asserts that the US state governments never intended to keep their promises in the deception and lies of “duplicitous misrepresentations designed to establish only temporary borders with Indian Country.” (Ellis 137).

In 1790, the Trade and Intercourse Act declared that states and individuals could not negotiate treaties because those legal and political acts could only happen between nations. (Deloria 9). With this notion, Indian nations were considered actual “nations.” In 1871, Congress would end the practice of treaty making. (Deloria 9). The end of treaty making would be a spark to the idea that would become the General Allotment Act of 1887. Deloria argues that Article Six of the U.S. Constitution was used as a means to strengthen claim of individual land, including
hunting rights and fishing rights in order to claim superior collective rights against other international treaties. (Deloria 10). The Constitution was considered the supreme law of the land.

**Treaties**

Geisler asserts that conquered Indians were not “willing sellers” of their land while Europeans considered the land “empty of significant civilization (qtd. in Cronon 1983). (Geisler 61). Caskey Russell argues that many of the Indians that signed treaties actually spoke the language that the treaty was written in which meant that treaties were framed by the translators and comprehension of the agreements are questioned. (Russell 12). With a loss of around half a billion acres, Geisler faults treaties as the main terminator of Indian title and land cessions and that treaties were a “reservation of rights not granted” rather than a “grant of rights to Indians” (qtd. in Nash 2008). (Geisler 62).

The United States Department of State acknowledges that there have been 374 ratified treaties with Indian tribes. (Bernholz & e al. 1). Pevar asserts that the “voluntary and mutually advantageous” treaties made between Indian tribes and the weaker, war worn new nation before the War of 1812 were originally considered “the supreme law of the land” according to the Constitution, but after the British threat ended with the war, Native American treaties were not as valuable. (Pevar 37). These original treaties were treated with high regard because the US supreme court treated Indian tribes as having same status as foreign nations and verified the necessity for Congress to “exhibit the most anxious desire to conciliate Indian nations” and avoid “everything which might excite hostility.” (Pevar 3). Robert Staley explains that treaties with American Indians are similar to treaties with any other sovereign nation because they equally hold the same legal status. (Staley 252). Geisler reminds us that it was the Treaty of Ghent that promised that Indians would receive legal titles to their land or “ample compensation for every
right in land they might relinquish.” (qtd. Henry Clay 1830). (Geisler 62). From this early
evidence of semi-positive initial relations between original inhabitants and a country in its
infancy, one would have to inquire how this naissance led to a path marred by a disturbing
sequence of tragedies transformed into the current complicated struggle between Native
American tribes and the United States government.

The contradiction remained that the United States was founded on giving freedom to and
opportunities to people that were settling on land owned by Native American Populations
essentially robbing them of those same freedoms to and opportunities that they sought for
themselves. Historian and philosopher Noam Chomsky calls the United States’ founding an
“infant empire” with an intent to drive out the Native Americans with Thomas Jefferson’s hopes
to ensure America “Free of blot or mixture” and George Washington’s dreams to “cause the
savage, as the wolf, to retire” and “induce [the Aborigines] to relinquish our Territories and to
remove into the illimitable regions of the West.” (Chomsky 17). Pawnee tribal judge and
attorney for the Native American Rights Fund Walter Echo-Hawk points out that the government
derives their power from the consent of the governed and that indigenous peoples are conquered
do not give legitimate consent to be governed. (Echo-Hawk 23). Echo-Hawk also asserts that the
Declaration was created in an era where indigenous people had no legal protection under
international law and international law actually legalized colonialism. (Echo-Hawk 23).

The Indian Nonintercourse Act of 1790 required the federal approval to transfer any
interest in tribal land, regardless if it were trust or non-trust land. (Pevar 96; Deloria 9; Geisler
62). Non trust land, also referred to as fee, fee patent, or deed land is owned outright by Indian or
tribe while trust land though set aside for exclusive Indian and tribal use, is owned by the federal
government. (Pevar 70). Requiring tribes to seek expressed consent by Congress, gave the
federal government control of Indian Land in order to protect it from “land grabbers.” (Pevar 96). This political mode of treaty relations viewed Indian tribes as sovereign nations where political acts were required to happen nation to nation and excluded states from this authority. (Deloria 9).

Pevar explains that in America’s early history, laws were set in place to protect Native Americans from “unscrupulous whites” from obtaining Indian lands without Federal consent. The 1787/1789 Northwest Ordinance ordered that land was never to be taken from Native Americans without their consent followed by a 1790 law that required a federal license to trade with Indians. In addition, the federal government created strict federal trading standards and created prosecution for non-Indians that committed crimes against Indians. Three years later, a new law went further to protect Native American land and they were exempt from American trade regulations. (Pevar 3).

“The utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made for preventing wrongs being done to them and for preserving peace and friendship with them....”

-The Utmost Good Faith Clause from the 1787 Northwest Ordinance

The 1787 Northwest Ordinance “defined the terms for establishing territories” implying that despite standing treaty obligations, Indian presence was assumed to be temporary. The ordinance also painted the façade of the “purest version of republican principles” that reassured that “the utmost good faith shall always be observed towards the Indians.” Ellis asserts that the promises of justice were a combination of an attempt to mislead Indians, soothe its American
authors’ consciences, and serve as a “republican cloak over an imperialistic agenda.” (Ellis 134). Indian tribes had to be cleared out and moved elsewhere in order to turn territories into states. (Deloria 9). This newly established American nation created laws that allowed theft of land and displacement of tribes.

**Marshall Trilogy**

The Marshall Trilogy that included the three cases of *Johnson v. M’Intosh*, *Cherokee Nation v. Georgia*, *Worcester v. Georgia* spanning between the years 1823-1832 was important because Supreme Court Chief Justice John Marshall defined doctrine of discovery, interpreted federal trust doctrine, and designated Native American Indian tribes as “domestic dependent nations.” (Tennant 27; Schroedel & Hart 42). In 1823, during *Johnson v. McIntosh* supreme court held a non-Indian buyer of land from Indian tribe didn’t have valid title because land was no longer owned by tribe because “The United States government had become the owner of all the land within the United States by virtue of the European “discovery” of the North American continent and the “conquest” of its inhabitants.” (Pevar 19). Simply put, it established that private citizens could not purchase lands from Native Americans because they didn’t own it and they only had occupancy rights that were granted by the US government. It also pointed out that Indian title can be extinguished by sovereign and right of occupancy in the ancestral homelands can be lost. Marshall’s doctrine of discovery was not only “distorted, historically inaccurate, and legally fictitious,” it claimed that Europeans were superior to indigenous people because they could lay claim to unoccupied and occupied land though it was already inhabited for hundreds or even thousands of years prior. (Wilkins and Lomawaima 54). Chief Marshall’s declaration that native occupants were tenants that needed to “relinquish their “occupancy right”, validated the speculators’ exploitation of legal loopholes. (Genetin-Pilawa 18).
In 1831, in *Cherokee Nation v. Georgia*, Marshall recognized tribes as “domestic dependent nations” but never addressed the issue if Georgia had violated the Constitution by executing intrusive laws in Cherokee territory. Marshall labeled tribes as “domestic dependent nations” rather than sovereign nations and the United States as the discoverer/claimer of the land, the federal government had a responsibility to protect its inhabitants. Doctrine of trust and obligation would later morph into something more and truly became about United States control rather than its interest in protecting Native American Indians. Paige M. Schmidt and Markus J. Peterson as experts in conservation and biodiversity explain that trust obligation now “includes management of tribal lands, individual land-allotment holdings, and protection of natural resources, including treaty hunting and fishing rights on ceded lands.” (Schmidt and Peterson). Schmidt and Peterson point out the contradiction that tribal governments are simultaneously and contradictorily domestic dependent nations but also which could lead to conflict between the federal authority provided by the Constitution and the self-determination of tribal governments and their sovereign rights. (Schmidt and Peterson).

In 1832, *Worcester v. Georgia* established that States can’t disrupt federal-tribal political and legal arrangements. (Duthu xv). It established that Georgia’s laws were unconstitutional in the Cherokee lands and confirmed the territorial boundaries of tribal homelands. (Duthu 8). Marshall also held that Indian nations were “capable of self-government and completely independent of and separate from the states.” (Hagan 61). Essentially, the Marshall Trilogy can be summed up as Indians don’t own the land they occupy because doctrine of discovery dictates that the United States discovered it laying claim to it, tribes are not a sovereign nation but are a domestic dependent nation that the federal government is obligated to protect, and Native American Indian tribes are inferior and too incompetent to own or manage land. (Schroedel & Hart 42). Wilkins
and Lomawaima argue that both ward and domestic dependent nation are "fictive statuses created for federal convenience to erase the reality of Native nations' inherent sovereignty." (Wilkins and Lomawaima; Wilkinson). Hagan asserts that Marshall's court decisions in 1830s assumed American Indians were not capable of managing own affairs and the government’s protection was truly an opportunity to control tribal communities. (Hagan 181).

John L. O’Sullivan reflected optimism along with and an incognizant justified entitlement in his "The Great Nation of Futurity." His definition of American Character was one where the rights of humanity along with national progress would lead an America that was "destined for good deed" into an "era of Greatness."(O’Sullivan). O’Sullivan wrote to inspire a nation to venture west because it was their God given right to spread democracy all the way to the end of the continent. His claim was that America had been chosen to enter “on its untrodden space with truths of God in our minds, beneficent objects in our hearts, and with a clear conscience unsullied by the past.” (O’Sullivan). O’Sullivan defends the God given right of the American to "confidently assume country destined to great nation of futurity" and defend "humanity, rights of conscience, and rights of personal enfranchisement." Believing that America was "chosen," O’Sullivan pressed that the American's "excellence of divine principles," "moral law/law of brotherhood," and "moral dignity and salvation of man," supported their "immutable truth and beneficence of God." (O’Sullivan). Alongside O’Sullivan's propaganda, John Gast’s American Progress was meant to be an inspiring painting that represented national enlightenment and support the spreading of democracy to the uncivilized. Catherine Denial indicated that Manifest Destiny was an “unabashedly prejudiced idea, eradication of American Indians and supported the white, protestant men’s unquenchable thirst for free enterprise.” (Denial). This form of propaganda would help justify the displacement and genocide of many Native Americans.
Geisler states it simply that “Manifest Destiny, as a lived experience, annihilated Indian people and culture.” (Geisler 61). Journalist John O’Sullivan’s painting was interpreted as the ordained divine westward movement to civilize the continent which became the nationalistic ideology of “Manifest Destiny.” This nationalistic concept was born in the 1830s that bestowed the idea that God’s divine plan for Americans was to expand across the continent and civilize and tame the land. (Black 187). Manifest Destiny was born of a mentality that exploited land as an economic resource and was once fueled the colonial “settler state” outlook and Echo-Hawk highlights the way that “cowboys and Indians” were romanticized though the legacy is truly one of poor social values, “legal institutions, economy, and notions of race.” (Echo-Hawk 134-35).

“Indian Territory” as a term was created when Indian removal began. (Hoxie 271). In 1831, American Indians had no legal standing in the courts because they were considered wards by the federal government, were non-American citizens and part of tribes that were non-foreign nations. (Lomawaima). Congress passed the Indian Removal Act in 1830 with the staunch support of President Andrew Jackson. Most tribes were forced to move west like the reprehensible “Trail of Tears” where fifteen thousand Cherokees died on their forced march to the Oklahoma Indian Territory. (Echo-Hawk 7). Echo-Hawk asserts that almost every single treaty that forced tribes to relinquish their ancestral homelands were broken, some almost immediately, and some broken multiple times pushing tribes to move over and over again further west to “permanent” homes. (Echo-Hawk 7). Pevar argues that tribes were given poor land and many reservations were barren. (Pevar 32). The 1870s were a time that American Indians were tied to their reservations unable to leave without permission passes as the government tried to deter Indians from hunting. (Geisler 67). During the 1870s, without seeking tribal permission,
the government granted land to the Northern Pacific Railroad to build through Indian lands. (Geisler 67).

**Federal Power**

The president’s office has a history of holding influence and power. In 1834, Congress passed a law that granted the president general power to “prescribe such regulations as he may think fit for carrying into effect the various provisions of any act relating to Indian affairs” but it did not provide the president with specific assigned powers. Though Congress delegates enormous authority to the Secretary of the Interior, it is a position that is appointed by the president. From 1855 through 1919, the president was given the power to create Indian Reservations through executive orders which do not require congressional approval. Congress would later bestow the power to assign parcels of tribal land to tribal members and select “surplus” parcels of tribal land that were to be sold to non-Indians. (Pevar 63). Congress passed a law in 1919 that stripped the president’s authority to create new Indian reservations, leaving Congress themselves the only one with that power. (Pevar 95).

In 1791, the Fifth Amendment’s Just Compensation Clause clearly states that the federal government cannot take away private property without paying fair and adequate compensation for it. It doesn’t prevent the government from taking land away, it just dictates that fair compensation is required. According to Pevar, the rights that are given to Indian tribes in a treaty or statute are a form of private property rights that are protected by the Just Compensation Clause. (Pevar 59).

Andrew Jackson changed federal Indian policy and by 1830, Congress would pass the Indian removal act giving authority to the president to negotiate and relocate tribes. Though tribes were originally granted “permanent” reservations, they were later moved them farther west
to Oklahoma Indian Territory. (Pevar 4). In 1848, gold was discovered in California and by the
mid-1800s federal control over Indians was increased through new laws which would “educate”
and “civilize” them and force them to assimilate to white society. (Pevar 4; Stremlau 268).

Pevar points out that Congress has the power to regulate tribal governments, tribal
membership, Indian land, Indian assets, individual property, trade, liquor and also has the power
to exercise criminal jurisdiction. (Pevar 61). The Supreme Court upholds Congress’ power to
terminate a “tribe’s political relationship with the federal government, order the tribe to distribute
all of its assets, eliminate the tribe’s reservation, and make tribal members subject to the full
jurisdiction of the state.” (Pevar 163). Congress also has the power to abolish tax immunity.
II. General Allotment Act of 1887

Stuart Banner asserts that allotments existed long before the Dawes Act. He states that a 1633 statute in Massachusetts granted land allotments to Indians that converted to a Christian, civil way of life. (Banner 260). According to Bobroff, “The reformers' story and the modern story both agree... allotment imposed private property on people who had previously known none” (Bobroff 3). American Indians believed in communal land instead of individual property. The Homestead Act of 1862 gave 160 acres of land to any citizen or hopeful citizen that was twenty one years old or older for a small registration fee. After working the land for six months, they could purchase the land. (Neville 238; Geisler 65; Gregg & Cooper 90). Citizens that acquired land through the Homestead Act were far better off than Indians that were “given” allotments of land.

The General Allotment Act in 1887 also known as the Dawes Act was named after Senate Henry A. Dawes. This act gave the President power to divide Indian reservations into individual allotment plots for individual tribal members. The plots ranged from 40 acres for a child to 160 acres for the head of a family. In 1891, Dawes introduced an amendment to the act that would grant eighty acres for each adult instead of just the head of a household. (Neville 241; Gregg & Cooper 90). Conveniently, the Act created provisions for any leftover land authorizing the Secretary of Interior to “negotiate the purchase of the tribe's "surplus lands" for settlement by white homesteaders.” (Bobroff 4).

Solution to the land problem

Immigration and the industrial boom in the United States created a need for more land and United States citizens needed to sprawl out. From 1870 to 1880, the immigrant population grew from 5,567,200 to 6,670,900. The next decade would show a 28% increase in the
immigrant population. (Gibson & Lennon). Wyman asserts that steamship’s affordable low fares assisted in the increase in immigration in the 1880s. (Wyman 22-23). In 1887, with the goal to break up tribal governments, abolish Indian reservations and force Native American Indians to assimilate to white society, Congress passed the General Allotment Act of 1887/Dawes Act. According to Hagan, the Dawes Act encouraged assimilation by breaking away from tribes, become farmers, and transferring to the American way of life. (Senier 420).

**Economic self-sufficiency & American assimilation**

Neville asserts that the expectation was that Indians would abandon hunting for a life of farming. (Neville 240). The hope was that after 25 years, Indians would have learned to “become self-supporting as farmers and ranchers.” (Fritz 651). Allotting agents were supposed to authorize “allotment of lands suitable for either agriculture or grazing.” (Fritz 649). Though each family received 160 acres of land, but most of the land was unusable. (Hagan 112; Black 189). Since the General Allotment Act did not define “Indian” or tribal eligibility, there was confusion regarding biracial Indians. (Ellinghaus 82). This proved to be problematic by allowing government officials to exclude mixed heritage Indians from receiving allotments. Minnesota was an example of where interracial Indians were denied tribal benefits and property. (Ellinghaus 82). Genetin-Pilawa reveals how the Dawes Act was originally intended to encourage economic independence and self-sufficiency through forcing Indians to own and tend individual property. (Genetin-Pilawa 156; Stremlau 265). Forcing Indians to participate in the free market economy would be the first step in coercive assimilation.

American Indians were expected to convert from their communal land beliefs to the American way of life with individual property as a priority. Property would guarantee economic rewards through participation in America’s free market economy. The idea that individual
property was more civilized than a communal sharing of land was an ethnocentric one. American Indians were expected to be educated in the American way so that they could become “civilized.”

Banner asserts that the belief stood that private property would make Indians industrious farmers, protect Indians from having their land expropriated, and that Indians would assimilate to Anglo American life. (Banner 263, 267, 268). Jason Edward Black uses the dissenting responses of American Indians to reveal the truth behind the false paternal benevolence in the General Allotment Act. (Black 185). Black illustrates the belief that many held that Indians needed to be protected “from violent white settlers” and chose a better way of life. Black uses examples of Senator Thomas Skinner’s ideas that Indians needed to rise to a civilized level and leave their “thriftless habits” to paint the ethnocentric view of the Indian way of life. Senator Joseph Dolph’s views of Indians as Federal wards that needed to be controlled (Black 186) demonstrates the prevalent idea that the United States conquered the “savages” and as the “superior” people, they had a responsibility to civilize them. (Black 187). Neville quotes Jill Martin’s summary of Dawes Act supporters imagining that Indians would be civilized upon leaving communal tribal life and pursuing “benefits from working the land” and the fruits of capitalism. (qtd. in Jill Martin). (Neville 241). Pevar asserts that Congress used the General Allotment Act in an effort to force assimilation of tribes and to undermine tribal authority. (Pevar 166). With the intent to “guide” and “protect” American Indian nations, the “supervisory role for the U.S. government over Native nations” was accommodated with a convenient elasticity clause giving the executive office “ultimate power in deciding on removal” (Black 186) as well as “the same superintendence and care over any tribe or nation in the country to which they may move.” (Indian Removal Act, 1830, n.p.).
Black highlights Jackman’s example of the United State’s view of itself as the superior “parent” needing to control its Native “children” (Jackman, 1994) and Kleninig’s (1983) assertion that this “paternal identity was a “technique for legitimizing control and violence.”” (Black 188). The Paternalism granted the United States many advantages including the ability to justify any interference in Indian affairs out of benevolence. (Black 189). Another advantage to paternalism was the cyclical pattern of oppression through the obligation American Indians “owed” the United States for their “charity.” (Black 189). Essentially, the General Allotment Act was intended to protect white interests. (Black 190).

A group called “Friends of the Indian” with members from different organizations gathered to validate each other in their justification to help American Indians assimilate to American Anglo society. (Stremlau 269-70; Lawrence & Cooke 218). Friends of the Indian were the underwriters of the General Allotment Act of 1887 and through this they envisioned American Indians assimilation into Americanized farmers. (Lawrence & Cooke 218). Unable to understand the gendered division of labor and refusing to consider hunting as “work”, Friends of the Indian believed that American Indian women did all the work while the men did nothing. (Stremlau 272). They also couldn’t understand American Indian family structures and values which led them to accuse American Indians of lacking order and neglecting their children. (Stremlau 274-5). Friends of the Indian believed that allotments would empower American Indians and help them become civilized. (Stremlau 276).

Bobroff asserts that advocates believed that Indians would only be able to join American society through owning private property. (Bobroff 2). The belief was that Indians needed to be civilized and this would happen though individualism brought through private ownership. (Bobroff 5; Neville 240). According to Fritz, “Ethnocentric Christian humanitarians that the best
solution was to prepare the Indians individually to enter the mainstream of the dominant society and bring an end to tribalism as well as to reservations” (Fritz 645). Friends of the Indians truly believed in the saving of Indians through their transition to “individualized, property-driven identity characteristic of Euro-Americans.” (Lawrence & Cooke 218). Indian Affairs Commissioner Hiram Price argued Indians needed help from government to become “agricultural and pastoral people, and to become self-supporting” (Fritz 651).

**Citizenship for American Indians**

Allotments were held in trust for twenty-five years for individual Indians and during this probationary period the lands would be tax free. At the end of the trust period, the allottee was given the deed and granted U.S. Citizenship. (Wilkins and Lomawaima 283; Gregg & Cooper 90; Bobroff 4). Once a tribal member received a trust patent, they also received the opportunity to pay taxes on their land as American citizens. (Bobroff 4). Through Congress' ratification of this act, Indian land was taken away legally in order to allow homesteaders to purchase land. (Black 185, 189). Banner claims that though some supporters believed that the allotments would protect Indians, there were many supporters that “wanted to accelerated land loss.” (Banner 257).
III. REALITY and RESULTS

House Minority Report on an early version of the Dawes Act: "The real aim of this bill is to get at the Indian lands and open them up to settlement. The provisions for the apparent benefit of the Indian are but the pretext to [*1608] get at his lands and occupy them. With that accomplished, we have securely paved the way for the extermination of the Indian races upon this part of the continent... We want their lands, and we are bound to have them." (Bobroff 20).

Geisler clarifies that congress abolished treaties in 1870 because the Supreme Court "ruled that Indian treaties might supersede prior acts of Congress (qtd. in Prucha 1994). (Geisler 64; Neville 240). Geisler points out that enclosure documentation illustrates settlers “repeatedly benefiting from treaties and trust machinations ultimately aimed at pacification and assimilation of Native populations. (Geisler 60-1). Neville points out how groups like the Indian Defense Association argued for a choice for Native American tribes regarding allotment. (Neville 240). Tribes were not able to choose to stay unallotted and though the tribes had to sign off on allotment agreements, Congress had the power to make the final decision. (Neville 241). "Unfortunately, as historian Wilcomb Washburn writes, in the allotment debate "the Indian Voice was either not heard, not heeded, or falsely reported." (Bobroff 20). Less than five percent of the 67 different tribes that had a choice to accept Congress allotments actually accepted them. (Bobroff 19). Bobroff asserts that there was a strong opposition against changing the tribal system and splitting up tribal land with the majority of Indians against it. (Bobroff 19).

Best allotments of land
The reality about allotted land was glaring. American Indians were not given the valuable allotments of land. With zero transparency, the allotting agents and those in charge of Indian Affairs had no one to hold them accountable. Fritz asserts that American Indians were not given allotments of mineral or “merchantable timber.” (Fritz 649). He also argues that white Americans had “access to, and control of, mineral and timber lands both on reservations and the public domain.” (Fritz 645). In 1889, special allotting agent Alice Fletcher wrote to the Commissioner of Indian Affairs “asking whether mineral lands could be allotted” (Fritz 649). Commissioner R. V. Belt responded to her “... mineral lands should not be allotted to Indians” because it was “unfair to the others” and Indians “have no right to work mines.” (Fritz 649). Greed was an obvious motive when federal policy changed in 1885 and the government began to identify mineral lands in reservations to cede to the United States. (Fritz 651). Indian Affairs Commissioner Hiram Price wanted to switch mineral rich allotted land for Indians for “land suitable for agriculture” (Fritz 651). This became more common as time went on. Because gold had been discovered in the Little Rocky Mountains, Price urged that the south side of the Little Rocky Range not be included in the reservation in order that “the [white] people may have the benefit of the mines.” (Fritz 651).

**Forced assimilation**

The belief was that Indians would be empowered and able to join American society once they own their own property. This step would also force them to become civilized and they would also abandon the tribal way of life. Lomawaima argues that the General Allotment Act of 1887/Dawes Act was a mechanism that tried to “civilize” Native American Indians and at the same time it only pretended to extend civilization and citizenship. Indian Americans were blocked from economic prosperity and property ownership which were the citizenship rights that
other Americans that were settling in the same area owned. Non-American Indians had the right to buy, own, and sell their land while Indian allottees did not. (Lomawaima). Niezen (2003) states that the United States government viewed the Indian land as unimproved and technically uninhabited requiring Anglo Americans to better it. (Black 194).

Forced citizenship carried with it stipulations and conditions that still hinder the socioeconomic progress of Native American Populations as well as eliminating any means or opportunity for self-sufficiency through the destruction of their way of life. The price of this American citizenship was a relinquishing of anything remotely akin to “Indianness.” The renunciation included abandoning religious practices and beliefs, prohibiting any communication in their native languages, and separating parents and children in order to “educate” them in Indian Schools. This blatant attempt to completely wipe out entire Native American Indian cultures would be detrimental to many oral traditions and preserved histories that can never be restored. Lomawaima asserts that the erase-and-replace assimilation in the federal boarding schools were part of the “either/or choices posed to Indians in the name of assimilation were illusions.” (Lomawaima 334). According to Siobhan Senier, with the goal of ending tribal traditions, “Christian missionizing, the home matron movement, and boarding schools” were encouraged through the Dawes Act in an effort to push assimilation. (Senier 421). This granted American citizenship required a forced assimilation of the Anglo American way of life that religiously persecuted Native Americans, prevented them from speaking their own language, abducted children forcing to go to Indian Schools, and a blatant attempt to completely wipe out entire Native American cultures. In 1887, though federal encouragement and supervision, fourteen thousands Indian children were forcibly taken from their parents and put in the two hundred Indian schools in order to “educate” and “civilize” them. (Pever 7).
Termination tribal life & government

In 1831, Chief Justice Marshall in Cherokee Nation v. Georgia (30 U.S. 1 [1831]) was the first to describe tribal sovereignty and the federal trust responsibility to tribes. He held that not only had the Cherokee Nation had always been recognized, but also treated as a quasi-state and not as a foreign nation. Chief Justice Marshall asserted that tribes were to be considered “domestic, dependent nations” that needed protection and required federal oversight. (Schmidt and Peterson). The Doctrine of Trust Responsibility holds the government morally obligated to act in the best interest of American Indian tribes and to fulfill promises created in treaties. (Pevar 59).

The government not only violated treaty rights, trust doctrine and tribal sovereignty when allotments were put in place, but they exceeded their authority by not requiring states to enable acts or disclaimer clauses that would amend their constitutions. (Wilkins and Lomawaima 208). Of the 77,865,373 acres of land that Native Americans original held, $5,409,530 were converted into allotments that were assigned to individual Indians by federal commissioners. (Hoxie 292). Hoxie asserts that the transferring reservation lands in order to accelerate the sale of “surplus” lands devastated tribes and traditional Indian governance along with the end of communal land management. (Hoxie 26).

Economic failure & Land forfeiture

Banner asserts that the underlying purpose for allotment was to free up Indian land with left over land given the Indian population only receiving 160 acres per person and the prediction that Indians would end up selling their lands. (Banner 271). Geisler points out Banner's assertion that debt and dispossession were the results of the discrimination that Indians faced instead of the agricultural independence that the allotments were expected to grant. (Geisler 66). Katherine
M.B. Osburn asserts that in addition to opening Indian land to white settlers, the Dawes Act also sought to “dissolve the Indians’ juridical identity and institutions of government.” (Osburn 454). Geisler argues that “by discriminating against Native American farmers and ranchers, the federal government has enabled the erasure of title, livelihood opportunities, and cultural identity among Indian farming and ranching communities.” (Geisler 56).

Geisler examines the idea that some hold that Indian land lost were not through coercion or force, but by “market mechanisms.” Giesler asserts that the market-like negotiations served as an instrument to mute the coercion Indians faced. He argues that Indians were alienated and their land enclosed because of their protectorate status. (Geisler 58). Geisler points out that idea downplays how American Indians were tricked through treaties, forcibly displaced, contained in reservations, and “defrauded of their landed birthright by unscrupulous non-Indians.” (Geisler 58).

After Dawes Act, Native American Indians lost two thirds of their land as their 140 million acres of land in 1887 shrunk to 50 million by 1934. (Cobb and Hagan 112; Senier 420). After the twenty five year period, American Indians were given the deed to their trust land and their non-trust land was subject to real estate tax. (Black 190; Stuart 452; Neville 241). Many American Indians were not informed of the change in their land status. (Gregg & Cooper 91). Unable to pay taxes on the land they finally owned outright, Indian land owners would lose their property to the government which would turn around and sell it. Under the guise of giving each tribal member of their own parcel of land, the Dawes Act’s real purpose was to sell “surplus land” to white farmers. (Ellinghaus 82; Stuart 452). Impoverished Indians sold their land to white settlers or lost their land when they were unable to pay state the real estate tax. (Pevar 5; Black
Banner highlights that the goal of forcing Indians to become farmers backfired as Indian farming declined during the time of allotments relative to their white counterparts. (Banner 257).

**Violation of Indian rights & treaties**

With individual tribe members assigned to unfarmable and barren land, the federal government was violating the Just Compensation Clause. Indians were not being given fair compensation for the land that they lost. There is a clear violation of the Doctrine of Trust Responsibility as the government failed in their moral obligation to act in the best interest of American Indian tribes and to also fulfill promises created in treaties. Treaties with Indians were held at the same legal status as those with any other sovereign nation. Creating a system that preyed on Indians lack of farming knowledge and experience while allotting them poor land was setting them up for failure.

American history is blemished by Laws that were put into place to take power and land away from Native American tribes and is still a challenging landmine of legal terms, their interpretation, and the fragility of the treaties themselves. Treaties were created with no intent to honor promises made to Native American Indian tribes. Wilkins and Lomawaima indicate that not only does the Supreme Court lack constitutional authority to “abrogate specific treaty rights or to divest Indian tribes of their rights by implication,” but that the court must follow these three cannons: “(1) resolve ambiguities expressed in treaties in favor of Indians; (2) interpret treaties as the Indians themselves would have understood them; and (3) liberally construe treaties in favor of the tribe.” (Wilkins and Lomawaima 173,141). Unequivocal and precise language that guaranteed permanency of newly assigned lands in The Cherokee Treaty of 1828, Shawnee Nation treaty of 1831, Apache Treaty of 1852, and many others were disregarded, nullified or
grossly revised to accommodate the need for land for Americans. (Wilkins and Lomawaima 201-02).

The population of American Indians were not properly taken into account when formulating the equal divisions of allotments to tribal members. Geisler argues that with an Indian population that was decimated through disease, warfare and displacement, the person capital allotment law left a substantial of leftover land as surplus. (Geisler 65). Gregg and Cooper argue that the tremendous reduction of Indian land and federal government's regulations reflected the Allotment's contradiction to the American "fundamental economic paradigm" of property rights equating to social benefits. (Gregg & Cooper 89).

In 1898, when the Five Civilized Tribes that were earlier excluded from the General Allotment Act in 1887 refused to sell some of their land for Non-Indians, Congress passed the Curtis Act in 1898. This Act abolished all tribal courts, forced allotment of tribal lands, and took away some of the tribe’s self-governing powers. (Pevar 266). The Curtis Act also dissolved their schools along with all of their governmental institutions. (Hoxie 177). Hagan blames the Paternalism as the heart of Indian policies. Indian funds badly mismanaged for years led to the 1994 creations of the American Indian Trust Fund management. This also came with a newly created Office of the special trustee for American Indians to oversee tribal trust funds and Indian money accounts that belonged to individuals. The Bureau of Indian Affairs failure to be responsible for money generated from lands held in trust and Indian funds so bad things Managed it is unknown how much was sold and to whom. (Hagan 181).
IV. AFTERMATH

In 1903, allotment opponents were labeled as “irreconcilables” and were arrested, incarcerated and “forced apportion of land under the allotment acts.” (Duthu 78). During the same year, the Lone Wolf v. Hitchhock case established that allotment acts were not depriving Indians of “recognized property interests” and explained that there was just a “mere change in the form of investment of Indian tribal property, the property of those who, as we have held, were in the substantial effect the wards of the government.” (Duthu 78). The Burke Act of 1906 amended the General Allotment Act/Dawes Act and allowed the Secretary of the Interior to assess competency of land allottees. (Stuart 454; Schroedel & Hart 46; Neville 241; Geisler 65). The Secretary of the Interior could grant the individual Native American Indians the simple fee patent/deed to their land which turned trust land into their owned property. The allotment of the reservations to tribal members resulted in 99 percent of the allotted lands procured by non-Indians. (Pevar 266). Pevar describes a trust allotment as federal land which has been set aside for the exclusive use of an Indian “allottee,” which requires federal approval to be sold, leased, or mortgaged. Land ownership is retained by US. (Pevar 17; Neville 241). Lomawaima explains how the trust status of individual allotments and reservation lands prevented Native American Indians from obtaining mortgages and homeownership. This did not change even after Native American Indians were granted American citizenship in 1924. Lomawaima uses this as one of the many examples of how American Indians are still treated as wards and not as citizens. (Lomawaima).

Dunbar-Ortiz states that the 1920s brought the pseudoscience of eugenics and the ideology of racial purity and white supremacy causing Native American Indians to prove the degree of their ancestry and “blood quantum” so their “indigenousness” could be measured.
(Dunbar-Ortiz 170). Osburn states that the vague criteria for Indian blood claims created complications for those that identified as legitimate Indians seeking benefits of tribal citizenship. (Osburn 455).

The Dawes Act would continue until 1934 when it was ended by the Federal government. At that point, the Dawes Act “eviscerated tribal governments” and Indians lost almost 90 million acres of land. (Bobroff 2; Stuart 453). Fritz contributes that a factor it the allotment failure was that “there was no land available to those Indians who were born after the allotment rolls on a given reservation were closed.” (Fritz 648). Bobroff adds that as the Dawes Act changed and disabled tribal property law, it also “destroyed tribes' power to adapt their property laws to meet new social, economic, political, and ecological conditions” (Bobroff 3). Bobroff asserts that Congress was the only one that had the power to change tribe property law so in fact the Dawes Act immobilized property law and tribes could no longer modify it. (Bobroff 3).

**Meriam Report and accountability**

In 1926, Dr. Lewis Meriam, with the help of Henry Roe Cloud began to survey and investigate the General Allotment Act. John D. Rockefeller, Jr. financed Meriam through a grant and by 1928, they published the Meriam Report. (Hagan 124; Stuart 455). The Meriam Report exposed terrible Indian poverty and failures of the General Allotment Act. (Hoxie 293). Meriam reported failures in health care and education and that the allotment policy actually played a major role in perpetuating this. (Genetin-Pilawa 156). The Meriam Report also pushed for more qualified staff in health and education services to raise the health and education standards. (Stuart 455). Genetin-Pilawa points out how the Meriam Report proves that ranchers, homesteaders, land developers, and farmers that purchased lands at a low price were the ones that profited while Indians suffered from the loss of lands. (Genetin-Pilawa 157). The report
suggested abandoning allotment, consolidate land for tribal use, move away from boarding schools and hiring more American Indians in Indian service. (Hagan 126-7).

According to the Meriam Report, though some Indians were able to select their allotments, their selections were made with their previous lifestyle in mind and not an opportunity to sustain their life there. Many Indians had never laid eyes on the allotment that was selected for them and at times, “this assigned land was not potentially productive” because as Meriam put it, the one creating the allotments wanted to just get it done instead of carefully selecting allotments that would be effective in helping the individual support themselves. (Meriam 470). According to Neville, the Meriam Report claimed that the Dawes Act failed to teach Native Americans to “manage their own affairs.” (Neville 242). Meriam revealed that Indians were not given the proper information to educate them in how to use their land. (Meriam 460). One can own land, but without the proper knowledge to farm it, one can make no income from it.

Meriam claimed that there were a few times of deliberate attempts to take advantage of Indians to take the best land away from them and some acts by Congress to exploit the Indians. But he explains that usually the mistakes were “errors in judgment or methods rather than of intent.” (Meriam 471). In other words, there were innocent mistakes that weren’t intended to be malicious. Decades later, that mismanagement and neglect would prove to be quite significant.

In "Reconciling conflict: The role of accounting in the American Indian Trust Fund debacle," Leslie S. Oakes and Joni J. Young examines how American Indian trust funds were mismanaged to the point that "neither the federal government nor trust holders themselves are sure whether the account balances are $7 or $100 billion currently." (Oakes & Young 63). When Congress demanded a complete historical account in 1994 from the Interior Department, they
answered with a short 24-page brochure claiming they fulfilled their trustee role. (Oakes & Young 64). Though there was an admission of missing and mishandled documents, the Interior maintained that they did their job.

The Meriam Report clearly states that the proceeds made from the sale of surplus lands were designated to be paid into a tribal fund. (Meriam 471). Oakes & Young points out that there could be balances up to $100 billion within 225,000 to 500,000 accounts and it was the Secretary of the Interior's responsibility to maintain American Indian Trust Accounts' balances and guarantee timely principal and interest payments. Oakes & Young reveal that the lack of accountability has stolen over a hundred years of financial resources to American Indians as well as the lease of mineral, gas and timber assets on these lands. (Oakes & Young 64). Oakes & Young highlights how the Dawes General Allotment Act was created with American Indians at a disadvantage. (Oakes & Young 66). Black puts it simply, "the federal government skimmed from the top." (Black 190). Most of the time, federal agents hoarded mineral and timber rich lands as surplus lands while assigning parcels of unfertile lands to American Indians. Not only did the division of tribal lands without tribal leadership consent go against most treaties, but it also stole the best and fertile unallotted lands automatically available to be purchased by the President for "whatever price he deemed reasonable." (Oakes & Young 66).

The Meriam Report showed that because of the common state of poverty, the inheritors of an allotment would quickly sell the property and spilt the money without proper assistance or knowledge to adjust and demand a fair price. The allotments would be sold for cheap without benefiting the "generation of landless, almost penniless" Indians. (Meriam 40). The Meriam Report was detailed in how there were several ways that Indian lands easily passed to white Americans especially when heirs needed a quick and simply way to divide the estate. (Meriam
Neville highlights how reformers regarded Indians that refused white societal assimilation as wrong and therefore not entitled to an opinion about their own future. (Neville 241). In 1901, heirship allotments were able to be sold by the secretary of the interior and in 1903 courts decided that tribal approval wasn’t necessary to sell surplus lands. (Neville 241-2). The government didn’t need tribal permission to sell surplus lands after 1903 and Congress "could abrogated prior treaty stipulations and allot reservations without the consent of Indian tribes." (Gregg & Cooper 91). Gregg and Cooper point out that Indian Affairs Reports indicate that while 6 million acres were allotted from 1888-1903, over 15 million acres were allotted from 1904-1920. (Gregg & Cooper 91).

In 1933, Hagan points out that with Democrats controlling both executive and legislative branches and a new president that was open to change and new ideas, progress seemed to be on the horizon. New commissioner of Indian affairs, John Collier accused allotment and assimilation was “A national disgrace – a policy designed to rob Indians of their property, destroy their culture, and eventually exterminate them.” (Hagan 126). The following year the Wheeler-Howard Act also known as the Indian Reorganization Act repealed allotments and brought lands back into trust.

Hagan shows that though this provided “provision for the purchase of the purchase new land, a revolving fund to provide credit for Indian agriculture and industry” along with educational opportunities and a student loan fund, it was not supported by all Native American Indians. Some opposed it because land in trust was really an “inferior status of wardship.” (Hagan 128). Hagan highlights Collier’s endorsement of, allotted lands consolidated of tribal use, cooperative Indian groups access to financial aid, decentralization of Indian Service so local officials more power, and more “community ownership and control.” (Hagan 126-27). President
Roosevelt believed that Indians had the rights of “political liberty and local self-government and the opportunities of education and economic assistance that they require in order to attain a wholesome American life.” (Hagan 128).

**Tribal sovereignty**

Tribal sovereignty has been a complicated web from the beginning. The government regulates the authority a tribe holds. This means that technically, the government controls everything. In modern times, the issues now revolve around the autonomy and sovereignty of “domestic independent nation” tribes as they navigate their complex relationship with the United States government and battle the endless regulations that dictate every aspect of their lives. According to Pevar, Indian Tribes have the right to form their own government. Similar to our current government, tribes can create the requirements for tribal office, select the process of how tribal officials are selected, decide on the power that these officials have, and determine which tribal members have voting rights. (Pevar 85). In the mid-1960s, government policy replaced termination as its goal to self-determination economically and politically. (Cobb and Hagan 144). The 1970s gave opportunities to exercise more authority for tribal governments followed by the 1980s that made efforts to establish inherent and extraconstitutional tribal sovereignty. (Cobb and Hagan 147). Self-governance is defined as a tool to empower tribes. (Cobb and Hagan 176). Echo-Hawk reveals that self-determination and self-government can be limited by congress can at will. (Echo-Hawk 252).

Neville brings up the question of exercising sovereign government power of eminent domain as a tribe when it comes to non-tribal members and non-Indians. (Neville 247). The Supreme Court was less “hospitable” toward tribal sovereignty in the 1980s. (Cobb and Hagan 161). When Mark Oliphant, a non-Indian assaulted a tribal police officer on the Suquamish, he
appealed that he could not be subjected to tribal authority because he was not Native American. The Supreme Court let by justice William Rehnquist denied the tribal criminal jurisdiction over non-Indians. Not only did this limit tribal sovereignty, this also raised questions about how had the power to determine tribal sovereignty and authority. (Cobb and Hagan 161). If non-Americans commit crimes on American soil, they are charged and tried on American terms. Echo-Hawk states that “federal Indian law recognized that Indian tribes retained all of their inherent sovereign power” that were not voluntarily relinquished in their treaties before Oliphant and the Supreme Court can assault self-determination because it is not considered an inalienable human right according to the Declaration. (Echo-Hawk 17). Tribal sovereignty under Worcester v. Georgia (1832) established the “four bedrock principals in federal Indian law”: Indian tribes enjoy “sovereign right of self-government” free from state interference, the supreme law of the land must honor Indian treaties, “the doctrine of discovery and edicts from Europe do not divest Indian land of sovereignty,” and the reservation borders are to protect the barriers tribes. (Echo-Hawk 120). Echo-Hawk exposes that tribal sovereignty can be curtailed by the Supreme Court at will. (Echo-Hawk 252).

There is a history of Native Americans deprived of guaranteed rights that their American Citizenship entitles them to. The lack of provision and protection of these inherent rights fails to uphold the original intent of the democracy they belong to. The US government has a history of schizophrenic federal Indian policies towards the Native American Indian Tribes according to Wilkins. (Wilkins and Lomawaima 117). Tribes rights are not protected the way the States rights are. The Tenth Amendment clarifies the balance of the powers of the state governments and the federal government. While the sovereignty of states is preserved, tribal sovereignty is not ensured. While the law in the Tenth Amendment is similar to that of treaties because the
Constitution confirms that treaties are the supreme law of the land, Indian treaty rights are not constitutionally protected like states’ rights because “tribes were not created by the U.S. Constitution and theoretically are not subject to constitutional limitations.” (Wilkins and Lomawaima 123). Wilkins and Lomawaima question the fairness of the federal government’s justification on summaries of Indian reserved rights when the treaties are supposed to be recognized as the supreme law of the land according to the Constitution but can also be altered without recourse according to the Supreme Court. (Wilkins and Lomawaima 123).

**Ongoing land and resource conflicts**

Office of Indian Affairs (OIA) “misunderstood the circumstances under which mineral and timber lands were allotted to the Indians under the Dawes Act and its amendments. This misunderstanding is partially the result of the image of a corrupt OIA that came out of the latter half of the nineteenth century.” (Fritz 645). Fritz quotes Janet McDonnell’s *The Dispossession of the American Indian* “allotting agents began assigning land that was unsuitable” for farming or grazing (qtd. in McDonnell). (Fritz 646). Farmers could not be self-sufficient on land that was not farmable. McDonnell claimed that “Government officials allotted mineral land to individuals in order to open up surplus lands to whites who were anxious to exploit the mineral wealth.” (qtd. in McDonnell). (Fritz 646). Fritz acknowledges the corrupt OIA, but he also holds Congress accountable for the “special acts that departed from the original intent of the Dawes Act.” (Fritz 646). Fritz also condemns the lack of staff in the OIA and its inability to handle the workload “imposed by successive acts of Congress,” (Fritz 646). This will later become an issue when paperwork is incomplete.

This allotment policy was created under the guise that it was meant to protect American Indian’s from exploitation (Senier 420), yet the federal government seized the opportunity to
lease the lands held in trust for grazing, timber or mining. American Indians were left out of the
decision making for the lease and payments because they only had limited titles that provided
them with zero authority. (Oakes & Young 66). Congress changed terms of Dawes Act allowing
mining leases to run longer than the original five year lease established in 1891 (qtd. In Prucha
2000) to a time determined by the Secretary of the Interior (qtd. In Mills and Willingham).
(Gregg & Cooper 91). According to Pevar, the GAA created an increase in State Jurisdiction
through the increased state authority over the increased amount of privately owned land and also
though the states’ power to regulate activities occurring on the land owned by non-Indians
within reservation. (Pevar 111).

By the time the Indian Citizenship Act of 1924 granted noncitizen Indians citizenship,
two-thirds had gained it through treaties or legislation. (Tennant 201). Tennant argues that tax
paying individual Native Americans lacked citizenship though they severed ties with their tribes
and tried to assimilate to Anglo American culture. The government used this to its advantage to
restrict rights and legal status of Native Americans that were considered part of the group
described in the phrase “excluding Indians not taxed.” (Tennant 38). The Fourteenth
Amendment, Article 1, Section 2, of the United States Constitution “four categories of people
become visible: free people (that is, “citizens”—always a contested term in that the exercise of
citizenship could be restricted on the basis of gender and wealth), indentured servants, “Indians
not taxed,” and “all other persons.”” (Deloria 7). The Fourteenth Amendment requires “the
counting of the “whole number of persons,” but it too excludes “Indians not taxed,” leaving
intact the initial structure of the Constitution.” (Deloria 7-8; Tennant 25). Deloria argues that
Indians were “extra-constitutional and Congress has, “absolute plenary power over Indians, as
both tribal nations and—through their tribal designation as Indians—as individuals” (Deloria 8).
In 1903, *Wolf v. Hitchcock* “clarified that Indians could not claim U.S. citizenship on the basis of birthright, since they continued to owe allegiance to “foreign” tribal nations” (Deloria 8).

One benefit of trust land status is that an Indian allottee’s income is not subject to the federal income tax when that income comes from the land that is under trust status. So any income from natural resources, farming, and ranching are not subject to federal income tax. Also, since trust land is owned by the federal government, states cannot tax the land unless they have congressional consent. (Pevar 171). Income from a business built on an allotment like a store or motel is taxable. The federal government does not tax millions of dollars coming in from lotteries, operative state liquor stores, pension funds, and state-owned convention centers. Indian Tribes also received the same tax immunity and Congress passed the Indian Tribal Government Tax Status Act of 1982 to hold this position “tribes “are not subject to federal income taxation – regardless of the nature of location of their activities”” (Pevar 170).

The Supreme Court decided in the 1908 *Winters v. United States* that each tribe was entitled to “an amount of water, the Court held, that would “satisfy the future as well as the present needs of the Indian Reservation.”” (Pevar 206). Congress has “the right to reserve water for federal lands, including Indian reservations” and theses reservations are created by Congress with the “intention of making them habitable and productive.” Although tribal trust land and *Winters* rights are owned by the federal government, Indian Tribes are not only the beneficial owners, they also have the “legal right to file suite to protect their water rights.” (Pevar 207). Though American Indians are the beneficial owners of water on their land, it is the federal government that owns the land that is the actual owner which has sovereign immunity from lawsuits. Because of the 1952 McCarran Amendment, federally secured water rights can be
adjudicated in federal and state courts. States cannot regulate water usage on a reservation. (Pevar 216).

Oakes & Young asserts that because American Indians lack necessary political influence and social capital, they are unable to "confront the legitimacy of the federal government's handling of these trusts." (Oakes & Young 73). Though there is an abundance of evidence of mismanagement, there is no true accountability and the failure to reconcile the contradictions of a nation and government founded on egalitarian and democratic values. (Oakes & Young 74). Clearly, the Dawes General Allotment Act was never meant to benefit American Indians. European and Anglo American settlers and opportunists were the ones that took advantage and profited from the further destruction of American Indian sense of community, way of life, and culture.

The conflict over land is still prevalent today. During his presidency, President Barack Obama set aside about 1.4 million acres of land by creating two new national monuments. (Wheeling). He wanted to preserve the land for its fossils, wildlife and because it is “important sites from the history of Native Americans.” (The White House). This unique situation also created an opportunity for a representative of the Hopi, Navajo, Ute Mountain Ute, Uintah and Ouray Ute, and Zuni tribes to participate on a Bears Ears Commission. Professor Charles Wilkinson notes that this will allow the five tribes to participate with federal agencies in “future decision-making at the new national monument.” (Wilkins). On December 4, 2017, President Donald Trump signed two presidential proclamations to change the national monument designation of Bears Ears and Grand Staircase-Escalante because he wanted to reverse the “lock up hundreds of millions of acres of land and water under strict government control.” (Trump). Trump claimed that the laws protecting these monuments were “harmful and unnecessary
restrictions on hunting, ranching, and responsible economic development.” (Trump). In addition to taking away religious lands from American Indians, there are 100,000 archaeological sites that will no longer be protected such as rock art, cliff dwellings, and graves. (Mims). The change in regulations that would allow mineral, oil, and gas opportunities could harm the wildlife that live on these lands. (Nordhaus). Paleontologist Rob Gay believes that the most likely resource that will be drilled for is uranium. His greatest concern is that without the designation as "monument," any person can collect fossils legally. (Wernick). The struggle continues for land and it will be an ongoing problem.

**Discrimination & Deception**

Native Americans though most lacked citizenship or many rights, still chose to participate in America’s wars. During World War I, 16,000 Indians served from 1914-1918, which was 20 to 30 percent of the adult male population. Choctaws were the first Code talkers in the Company E of the 142nd and 143rd Infantry Regiment. (Cobb and Hagan 120). After WWI, the Society of American Indians pushed for citizenship for Native Americans highlighting their high rate of draft registration and voluntarism. (Cobb and Hagan 121). Indian men were fighting for a country that did not provide any protected rights. Sabol claims that most scholars believe that 12,000 and 17,000 American Indians “served, either having enlisted or been conscripted, in the American armed services during the First World War.” (Sabol). According to Sabol, Congress granted Indian veterans the opportunity to petition for citizenship in 1919, but because the effort was not properly promoted, most Indians weren’t aware of this option and very few eligible men applied. (Sabol). Sabol claims that many scholars assume that Congress granted citizenship to Native American Indians in 1924 as a reward “for their service and commitment to the country at a time of great need.” (Sabol).
American values and ideals have been clearly and continuously contradictory as it has robbed lands through force, coercion, and manipulation, prohibited religious freedoms, inhumane treatment, often creating and trapping Native Americans in practically inhabitable environments, and even slaughtered innocent people. In the forty wars that the United States has fought against Indian tribes, 50,000 American Indians have been slain. (Echo-Hawk 178). Chomsky argues that up until the 1960s, “with very rare exceptions, academic scholarship was grossly falsifying the history, and suppressing the reality of what happened” which included the falsified number of Native Americans killed. (Chomsky 215). Echo-Hawk clarifies that “colonization of Native lands is invariably accompanied by destroying the habitat that supports the tribal way of life.” (Echo-Hawk 150).

The US possessed powerful reasons to maintain Indian individuals as wards and tribes as domestic dependent nations, even after 1924 blanket citizenship. (Lomawaima 334). Sharon Holm points out that over two decades after gaining citizenship, both Arizona and New Mexico were still preventing Indian citizens the right to vote which affected almost 100,000 Indians. (Holm). According to Schroedel and Aslanian, South Dakota prevented Native Americans from voting until 1951. South Dakota also continued to use methods to disenfranchise most Native Americans in their state for decades. (Schroedel and Aslanian). Congress passed the 1965 Voting Rights Act (VRA), which prohibits voting practices that "deny or abridge the rights of any citizen of the United States to vote on account of race or color." (Schroedel and Aslanian). Up until the early 1980s, Native Americans residing in Todd County and what is now Oglala Sioux County where prevented from voting because South Dakota law statutorily prohibited it and only changed it when forced to. (Schroedel and Aslanian).
Echo-Hawk reveals that tribal governments can’t protect their citizens from non-Indian violence because the law prevents it. (Echo-Hawk 253). The Tribal Law and Order Act of 2010 increased the power that tribal governments have in order to deal with the staggering violence statistics where 34% of Native American will be raped in their lifetime and 39% Native American women have experienced violence. Echo-Hawk asserts that the issue is that 66% of Indian victims report their attackers are non-Indian and the Oliphant loophole prevents tribal prosecution of non-Indian criminals. (Echo-Hawk 192-93). Echo-Hawk claims that the second class citizen land rights for Native Americans do not meet the UN standards and the shocking gaps in the socio-economic conditions along with societal trauma indicators will only be remedies through honoring the true Declaration duties by the United States. (Echo-Hawk 253).

Another issue that is still complicated is land. Schmidt and Peterson point out that the National Wildlife Refuge System’s control of 8 million hectares is almost a third of the 21 million hectares in the control of the over 500 federally recognized American Indian tribes. (Schmidt and Peterson). Wilkins and Lomawaima sum up that treaties as legally binding between tribes and the government as “constitutionally privileged as the supreme law of the land” require mutual consent for modification or abrogation along with explicit expression of intent and as federal pledges they are federally and constitutionally mandated to defend these treaties. (Wilkins and Lomawaima 173,141). Schmidt and Peterson explain that the ESA was enacted to “prevent the extinction of species and to protect species’ habitats” and it is complicated because tribes end up have to carry a “disproportionate burden for conservation of species and habitats because centuries of development on non-Indian lands typically results in tribal lands being refuge for species at risk”. (Schmidt and Peterson). With tribal governments trying to have economic viability, there are efforts of economic development initiatives and the
ESA is asking agencies to find balance so that “federal–tribal trust responsibility, tribal sovereignty, and statutory missions of the departments while simultaneously striving to ensure that the tribes do not bear a disproportionate burden for the conservation of listed species.” (Schmidt and Peterson). Schmidt and Peterson argue that in order to support both biodiversity conservation and tribal self-determination, Congress must clarifying congressional intent, clarify statutory authority, Enable line-item funding and most importantly “amend the ESA to define whether it applies to tribal lands.” (Schmidt and Peterson).

Native Americans still face discrimination, oppression, and a lack of opportunities for socioeconomic progress as their rights go unprotected and at times stripped from them through the same government that granted them citizenship. There is also an ongoing struggle to preserve the natural resources that are often endangered their land that is accompanied by complicated rights that prevent progress. Chomsky points calls the United States many treaty violations with Native Americans as “grotesque” and was even a model that Hitler used in his plans against the Jews. (Chomsky 135). According to the 2010 census, there are 5.2 million people that identify as Native Americans in the United States. (Cobb and Hagan 167). Hagan reiterates Senator Harry Reed and Senator Byron Dorgan’s staggering findings that 90,000 Native American families are homeless, one-third of American Indian homes are overcrowded and this is the result of underfunding through Congress that “seriously undermined the goal of achieving parity with non-Indians.” (Cobb and Hagan 177). Echo-Hawk claims that as long as “public education, information, and media” are not held accountable to Native America, their social ills will continue to grow. (Echo-Hawk 253). Echo-Hawk argues that Native Americans’ political relationship will continue to fall “short of the protectorate intended by Worchester” because they fail to meet the UN standards of indigenous government participation in decision-making. (Echo-
Hawk 253). Echo-Hawk also argues that Native Americans are prevented from gaining remedial justice or discourse because while the legal system “is adept at righting wrongs against victims who present individual claims,” it does not bestow reparative justice for a group of collective wrongs against groups. (Echo-Hawk 17). Wilkins points out the ambiguity within the federal governments "indeterminate relationship with tribal nations and their members." Wilkins refers to this as a double-edged sword that enables political and legal flexibility while potentially depriving Indigenous peoples of "clear and consistent understanding or the powers and rights they may be capable of exercising." (Wilkins 224).
CONCLUSION

Handled with severe brutality, misled with façades of promises, and surviving intentional efforts of eradication, Native Americans essentially gained a distorted version of American Citizenship from a nation that contradicted its own democratic values though the exploitation of its perceived rights as American Citizens to justify conquest, theft, displacement and attempted genocide only to resort to granting forced American Citizenship in an effort to conveniently resolve their territorial interests while deliberately attempting to eliminate Native American culture through forced assimilation, continuing to fail at honoring its treaties and trust through revisions and repeals, and undermining Native Americans’ self-determination and self-governance as domestic independent nations. The General Allotment Act of 1887 created an opportunity for white settlers to legally obtain previously owned Indian land. This creative and devious plan stole millions of acres from American Indian tribes. The General Allotment Act of 1887 created a domino effect that destroyed Indian way of life, culture, tribal community, and perpetuated a cycle of poverty for betrayed Indians. This also continued the struggle for tribal sovereignty and the struggle of American Indian citizenship Rights. The General Allotment Act of 1887 was created with the intent to fail American Indians and its residual damage continues to be a burden for the American Indian people.

Citizenship was only granted ninety three years ago to all Native American Indians and it was accompanied with a long list of stipulations and conditions that still hinder the socioeconomic progress of Native American Populations. Wilkins and Lomawaima argue that when Native American Indians were finally and officially granted American citizenship in 1924, the Court should have altered its extreme deference that often allowed for political branches to violate Indian rights. Wilkins and Lomawaima also claim that the original associated privilege of
Congress’ exclusion from judicial review should have ended when Congress altered treaty-making. (Wilkins and Lomawaima 283). The Meriam Report exposed terrible Indian poverty and failures of the General Allotment Act. (Hoxie 293).

The General Allotment Act of 1887 created a series of problems, many of them still left unresolved. In an effort to force assimilation on Indians, the federal government almost successfully destroyed tribal government and tribal culture. With greed as the main motivator and acquiring land as the main objective, the American government broke treaties and violated Indian rights in order to create a system that would inevitable fail Indians. America has yet to face its reprehensible swindling Indians out of land and resources. This problem persists because it is still prevalent as an ongoing conflict over land and resources. There can never be true healing without reconciliation until reparations are made.
Bibliography


**Primary Sources**


https://babel.hathitrust.org/cgi/pt?id=coo.31924014526150


**Cases**

Elk v. Wilkins, 112 U.S. 94 (1884).  
Johnson v. M'Intosh, 21 U.S. 543 (1823).  

**Statutes**