



BIA History



BACKGROUND

- 1755 - The British Crown establishes an Indian Department.
- 1774 – A committee is established for Indian Affairs
- 1775 through 1783 – Revolutionary War
- 1786 – The Secretary of War assumes supervision of the Indian Affairs.
- 1789 – The United States creates the War Department because many Native American nations are still allied with the British and Spanish, Indian Affairs is moved to the newly developed War Department.

BACKGROUND

- 1803 – Louisiana Purchase (7 present day states, plus portions of 8 present day states for 15 Million from the French.)
- March 11, 1824 – The Office of the Indian Affairs is formed by War Secretary John C. Calhoun in the Department of War.
- In 1849 Indian Affairs was transferred to the U.S. Department of the Interior. (The bureau was renamed as Bureau of Indian Affairs in 1947)
- 1853-1856 – The United States makes over 52 treaties with various Indian nations and it gains 174 million acres of land.
- March 3, 1871 – Congress creates an act that disallows further treaty negotiations with tribes. Past treaties are still honored, but new agreements will be in the form of executive orders or congressional acts.



WHY TREATIES MATTER

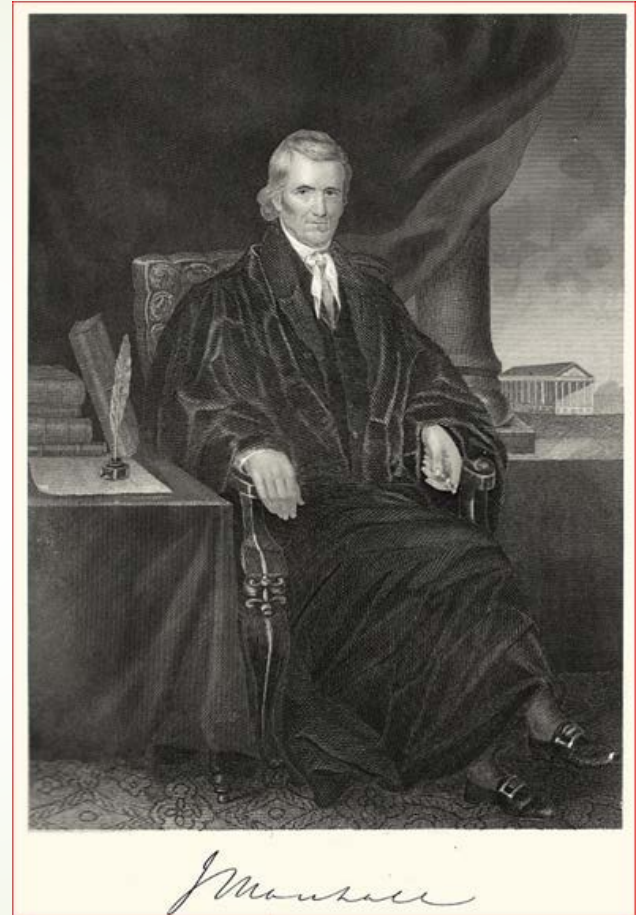
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THE MARSHALL TRILOGY

1823-1832

The Marshall Trilogy is a set of three Supreme Court decisions in the early nineteenth century affirming the legal and political standing of Indian nations.



Chief Justice John Marshall

JOHNSON V. M'INTOSH (1823)

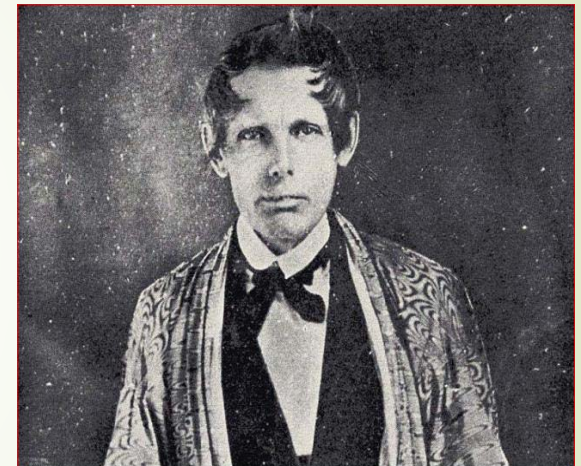
- **Facts.** Johnson inherited a tract of land from his father, who bought the land from the Piankeshaw Indians. M'Intosh, a fur trader and real estate entrepreneur, was later granted title from the United States government. Johnson's son Joshua Johnson and grandson Thomas Graham sued William M'Intosh in the landmark Supreme Court Case.
- **Issue.** Do Native Americans possess title to their land?
- **Decision:** ?

CHEROKEE NATION V. GEORGIA (1831)


- **Facts.** The Cherokees had been granted four million acres of land within Georgia's borders through various treaties with the United States. In 1827 they declared themselves an independent nation and adopted a constitution, in part to protect their claims to recently discovered gold deposits. The Georgia legislature responded by passing "Indian laws" that annulled all Cherokee "laws, usages, and customs." The Cherokee Nation, describing itself as a foreign state, attempted to invoke the original jurisdiction of the Supreme Court.
- **Issue.** May the Supreme Court assume original jurisdiction over the claims of Native American tribes?
- **Decision:** ?

WORCESTER V. GEORGIA (1832)

- **Facts.** Samuel Worcester (defendant), a white individual, was living on the land of the Cherokee Nation in the State of Georgia (plaintiff). Under the requirements of Georgia law at the time, all white individuals living on Cherokee land were required to obtain a permit or license from the state. The individuals were also required to take an oath of allegiance to Georgia. Under Georgia law, individuals who violated these requirements could be arrested and brought to court. Worcester failed to obtain a permit or take an oath as required under the law and, as a result, was charged and convicted with four years of hard labor in Georgia's jails.
- **Issue.** Did Georgia have the right to exert authority over individuals in the Cherokee Nation?
- **Decision:** ?



Samuel Worcester



Marshall Trilogy, 1823-1832

Quick Summary

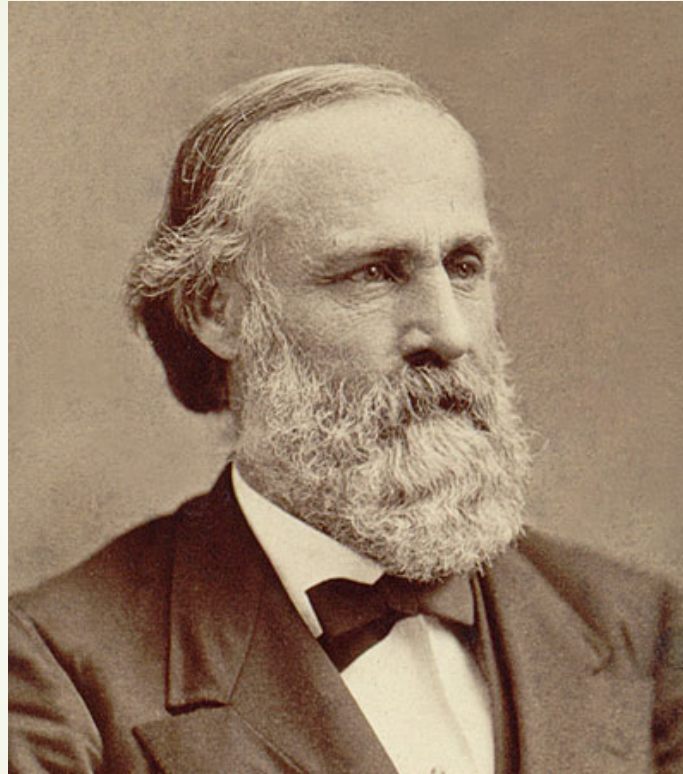
- Johnson v. M'Intosh (1823) holding that private citizens could not purchase lands from Native Americans.
- Cherokee Nation v. Georgia (1831) holding the Cherokee Nation dependent, with a relationship to the United States like that of a “ward to its guardian.”
- Worcester v. Georgia (1831) which laid out the relationship between tribes and state and federal governments, stating that the federal government was the sole authority to deal with Indian Nations.



Significant Historical Events

- Dawes Act or General Allotment Act of 1887
- Burke Act 1906
- Meriam Report of 1928
- Indian Reorganization Act 1934

The Dawes Act or General Allotment Act of 1887



Henry Lauren Dawes

<https://youtu.be/45HATCW02PQ>

The Dawes Act

Purposes of the Act

In the *Report of the Secretary of the Interior* of 1886, Senator Dawes said he wanted the government to:

“...put [the Indian] on his own land, furnish him with a little habitation, with a plow, and a rake, and show him how to go to work to use them The only way [to civilize the Indian] is to lead him out into the sunshine, and tell him what the sunshine is for, and what the rain comes for, and when to put his seed in the ground.”

The Dawes Act or General Allotment Act of 1887



Marker for an allotment established under the 1887
Dawes Act, near Pine Ridge, South Dakota



The Burke Act of 1906

“..the Secretary of the Interior may, in his discretion, and he is hereby authorized, whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs at any time to cause to be issued to such allottee a patent in fee simple, and thereafter all restrictions as to sale, encumbrance, or taxation of said land shall be removed.”

INDIAN LAND FOR SALE

GET A HOME

OF
YOUR OWN

EASY PAYMENTS



PERFECT TITLE

POSSESSION

WITHIN

THIRTY DAYS

FINE LANDS IN THE WEST

IRRIGATED
IRRIGABLE

GRAZING

AGRICULTURAL
DRY FARMING

IN 1910 THE DEPARTMENT OF THE INTERIOR SOLD UNDER SEALED BIDS ALLOTTED INDIAN LAND AS FOLLOWS:

Location	Acres	Average Price per Acre	Location	Acres	Average Price per Acre
Colorado	5,211.21	\$7.27	Oklahoma	34,664.00	\$19.14
Idaho	17,013.00	24.85	Oregon	1,020.00	15.43
Kansas	1,684.50	33.45	South Dakota	120,445.00	16.53
Montana	11,034.00	9.86	Washington	4,879.00	41.37
Nebraska	5,641.00	36.65	Wisconsin	1,069.00	17.00
North Dakota	22,610.70	9.93	Wyoming	865.00	20.64

FOR THE YEAR 1911 IT IS ESTIMATED THAT 350,000 ACRES WILL BE OFFERED FOR SALE

For information as to the character of the land write for booklet, "INDIAN LANDS FOR SALE," to the Superintendent U. S. Indian School at any one of the following places:

CALIFORNIA:
Alamo
DODGEVILLE
Jensen
HARDY
Laramie
KANSAS:
Garden
Tulsa

MINNESOTA:
Bismarck
MONTANA:
Crow Agency
SPOONHILL
Moor
Gardner
Wendover

NORTH DAKOTA:
Fort Totten
Fort Totten
Oklahoma:
Anadarko
Cottonwood
Cottonwood
Cottonwood
Cottonwood
Cottonwood

OKLAHOMA: Can.
Sacred Fire Agency
Guthrie
Wynnton
OREGON:
Cannon Agency
Pendleton
Seaside
Sisters

SOUTH DAKOTA:
Cheyenne Agency
Crow Creek
Greeley
Lower Brule
Pine Ridge
Sioux Falls
Sioux Falls

WASHINGTON:
Fort Simcoe
Fort Spokane
Tulsa
Tulsa
WEDNESDAY
WEDNESDAY
WEDNESDAY

WALTER L. FISHER,

Secretary of the Interior

ROBERT G. VALENTINE,

Commissioner of Indian Affairs



Results of Allotment

- Severe reduction in the quantity of Indian landholdings
 - From 138 million acres in 1887 to 48 million acres in 1934
- Division of allotments among the many heirs of original allottees
 - Inherited shares are often less than one-hundredth of a single allotment

Meriam Report

THE INSTITUTE FOR GOVERNMENT RESEARCH

Washington, D. C.

The Institute for Government Research is an association of citizens for cooperating with public officials in the scientific study of government with a view to promoting efficiency and economy in its operations and advancing the science of administration. It aims to bring into existence such information and materials as will aid in the formation of public opinion and will assist officials, particularly those of the national government, in their efforts to put the public administration upon a more efficient basis.

To this end, it seeks by the thoroughgoing study and examination of the best administrative practice, public and private, American and foreign, to formulate those principles which lie at the basis of all sound administration, and to determine their proper adaptation to the specific needs of our public administration.

The accomplishment of specific reforms the Institute recognizes to be the task of those who are charged with the responsibility of legislation and administration; but it seeks to assist, by scientific study and research, in laying a solid foundation of information and experience upon which such reforms may be successfully built.

While some of the Institute's studies find application only in the form of practical cooperation with the administration officers directly concerned, many are of interest to other administrators and of general educational value. The results of such studies the Institute purposes to publish in such form as will insure for them the widest possible utilization.

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INSTITUTE FOR GOVERNMENT RESEARCH

STUDIES IN ADMINISTRATION

THE PROBLEM OF INDIAN ADMINISTRATION

Report of a Survey made at the request
of Honorable Hubert Work, Secretary
of the Interior, and submitted to him,
February 21, 1928

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THE JOHNS HOPKINS PRESS
BALTIMORE MARYLAND

1928



1883 - St. Mary's Boarding School, on the Chippewa [Bad River] Indian Reservation, Odanah, Wisconsin
The mission closed in 1969.



Tom Torlino, (Navajo) as he appeared upon arrival to the Carlisle Indian School (Pennsylvania), October 21, 1882, and Tom Torlino, three years later.

Meriam Report



Thomas Moore before and after his entrance into the Regina Indian Residential School in Saskatchewan in 1874. (*Library and Archives Canada*)

Indian Reorganization Act of 1934

- Enacted in response to the *Meriam Report* (1928) which described an array of Indian social and economic hardships – including failure of the allotment system
- Repeal of the General Allotment Act of 1887 and halt to any further allotments
- Any non-allotted surplus lands became available to tribes organized under the IRA
- Trust period on Indian allotments was extended indefinitely
- Taxation on allotments was eliminated

Indian Reorganization Act



Secretary of the Interior Harold L. Ickes hands the first constitution issued under the Indian Reorganization Act to delegates of the Confederated Tribes of the Flathead Indian Reservation (Montana), 1935. (LIBRARY OF CONGRESS, PRINTS AND PHOTOGRAPHS DIVISION)

A New Government

- Indian Preference
- Self-Determination
- Self Governance
- Trust Reform





Missions of Interior Organizations with Trust Responsibilities

BIA: To enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes and Alaska Natives.

OST: To perform our fiduciary trust responsibilities to American Indian tribes, individual Indians, and Alaska Natives by incorporating a beneficiary focus and beneficiary participation while providing effective, competent stewardship and management of trust assets.



Missions of Interior Organizations with Trust Responsibilities

OAS: To provide our clients with high quality independent, objective appraisal services prepared in accordance with national and federal standards. The highest quality appraisal services are the foundation for sound real estate business decisions made by or on behalf of trust beneficiaries.

The Indian Trust

- The Indian trust represents the largest land trust in the U.S. and encompasses approximately 56 million acres of land.
- Interior manages more than 100,000 leases on these lands.
- Funds from leasing, use permits, land sales, and interest totaling approximately \$300 million per year, are collected for about 323,000 open IIM accounts.
- Approximately \$500 million is collected each year in 1,450 tribal accounts for over 250 tribes.



Sources of Revenue

Includes a variety of encumbrances.

- Road or Utility Rights-of-Way generate revenue that is usually a one-time payment unless otherwise specified within the Right-of-Way document.
- Timber Sales revenue generates multiple payments that are identified within the timber sale contract.
- Residential, business, agricultural and recreational leases are another source of revenue.



Indian Land Consolidation Act (ILCA) 1983

- Intended to limit fractionation by consolidating Tribal lands through sales and exchanges
- Largely dependent on Tribes to implement – very few Tribes initiated any actions under the statute
- Self-executing “2% Rule” which was held unconstitutional by U.S. Supreme Court in *Irving* (1987) and *Youpee* (1997)

ILCA – 2000 Amendments

- Purported to establish sweeping inheritance restrictions
 - Narrow definition of “Indian”
 - Restricted inheritance for non-Indians (life estate)
 - Restricted inheritance rights for collateral heirs
- Significant objections raised by Tribes and Indian landowners with respect to inheritance restrictions
- Secretary never certified the provisions – probate amendments never became effective
- Indian Land Consolidation Project (Pilot) – Federal funds used to “buyback” highly fractionated interests on behalf of Tribes



The American Indian Probate Reform Act 2004

- Establish a Federal Indian Probate Code
 - Effective date for most provisions will be May 2006
 - Replaces State Probate Codes
 - Tribes may develop their own probate codes
- Limit Fractionation
- Prevent Loss of Trust Land
- Promote Land Consolidation
- Allow Owner Management



Cobell Settlement

The Cobell settlement was approved by Congress on November 30, 2010 (Claims Resolution Act of 2010) and signed by President Obama on December 8, 2010. The \$3.4 billion Cobell Settlement includes a \$1.9 billion Trust Land Consolidation Fund, and \$1.5 billion in direct payments to class members.

Land Buy-Back Program for Tribes

The Secretary of the Interior established the Land Buy-Back Program for Tribal Nations (Buy-Back Program) to implement the land consolidation provisions of the Cobell Settlement Agreement. The Settlement provided for a \$1.9 billion Trust Land Consolidation Fund (Fund) to consolidate fractional land interests across Indian Country.

There are approximately 150 unique reservations that have fractional interests. The Buy-Back Program allows interested individual owners to receive payments for voluntarily selling their land. All interests sold are restored to tribes, which helps to keep Indian lands in trust for tribal communities.

<https://youtu.be/zu52ig696L4>

- Kevin Gover Speech, “Remarks at the Ceremony Acknowledging the 175th Anniversary of the Establishment of the Bureau of Indian Affairs,” delivered September 8, 2000.

For additional information regarding the Bureau of Indian Affairs visit

www.bia.gov

Questions?