

# Federal Indian Policy 1492–Present

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# Early Interactions between European Countries– Indian Tribes

- Conflict
- Warfare
- Cultural Clash
- Religious Clash

## Europeans wanted resources from the

- Land
- Animals
- Furs
- Water
- Timber
- Minerals

# The Overriding Theme of the Europeans and New Settlers

- Assimilation or absorbing the tribal population into the new population
- Eliminating tribal religion and replacing it with Christian religion
- Eliminating tribal cultures
- Eliminating tribal traditions and way of life

# Overriding Theme of the Europeans

- Europeans entered into treaties with Indian tribes to take control of the land they were living on and to enhance peace between settlers and Indian tribes
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- This was the beginning of the European countries and the yet unformed United States entering into a Government-to-Government relationship that still is practiced today

# Colonial Period 1492-1774

- During this time period all tribes were treated as sovereign nations
- Treaties were written because policy made the tribes the rightful owners of all the resources found in and on their land, such as:
  - Prime farm land
  - Gold
  - Silver
  - Timber

# Confederation Period 1774–1789

- Continental Congress was formed in September 1774 and lasted until 1781
- Policy of the Continental Congress toward Indians was to attempt to keep them neutral to prevent them from fighting on the English side
- Continental Congress dealt with the tribes on a diplomatic basis

# Articles of Confederation Congress 1781-1789

- Did not assign exclusive power over Indian Tribes to the Federal Government
- Response to states and citizens meddling in Indian affairs
- Important function was to handle Indian affairs and prevent wars

# **Constitution**

## **Adopted on September 17, 1787**

- Impacts of the new wars and conflicts led to the formation of a new and even stronger Federal Government
- Exclusive power over Indian affairs was now placed with the Federal Government as stated in the United States Constitution

# Constitution

## Commerce Clause, Article I, Section 8

“To regulate Commerce with foreign Nations and among the several States, and with Indian Tribes;”

## Supremacy Clause, Article VI

“and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land;”

# Trade and Intercourse Act—1790

- Congressional regulation of commerce between Indian Tribes and non-Indians
- Restricted travel by non-Indians onto Indian land
- Federal Government trading houses established to foster peaceful relations and to bind the tribes economically to the United States

# Removal Act—1830

- Authorized President Andrew Jackson to exchange lands with the Indians east of the Mississippi for land west of the Mississippi
- Removal was to be voluntary, although most were forced
- Tribes were removed to Indian Territory which is now the state of Oklahoma

# Removal Act—1830

Cherokee Nation fought removal and filed law suits  
in the Supreme Court

- Cherokee Nation v. Georgia (1831)
- Worcester v. Georgia (1832)

# Removal Act—1830

## Cherokee Nation v. Georgia (1831)

- Cherokee filed a law suit with the Supreme Court to stop the State of Georgia from passing laws that interfered with the tribe and its territory.
- Cherokee Nation argued that Supreme Court had jurisdiction because Cherokee Nation was a foreign state.
  - Cherokee Nation was not one of the states of the union of the United States
  - Cherokee members were not citizens of the United States
  - A government of aliens (Cherokee Nation) must be a foreign state

# Removal Act—1830

## Cherokee Nation v. Georgia (1831) Supreme Court Ruling

The Supreme Court held that:

- The Cherokee Nation was not a foreign state and Supreme Court had no jurisdiction
- Cherokee Nation could not sue the state of Georgia
- Tribes are states because they entered into treaties with the United States
- Tribes were domestic dependent nations

# Removal Act—1830

## Worcester v. Georgia (1832)

- New England missionaries sent to prison for entering Cherokee County without permission of the Governor of Georgia
- Missionaries appealed to the Supreme Court and were freed
- The Federal Government recognizes tribal sovereignty
- State jurisdiction was denied

# Creation of Formal Indian Reservation 1850-1887

- Reservation policy was to enter into treaties with tribes to keep them separate from settlers so conflicts and battles over land would end
- Treaties clearly defined areas of reserved land for tribes

# Indian Reservations

- Tribes were allowed to reserve vast amounts of land such as:
  - 44 million acre reservation for the Shoshone tribe of Wyoming
  - 1851 treaty with the Sioux Nations included all of present-day South Dakota and parts of Nebraska, Wyoming, North Dakota and Montana
- Treaty making was ended in 1871
- Around 300 reservations were established

# General Allotment Act of 1887 (Dawes Act)

- Broke up reservation land by assigning individuals parcels of land
  - Head of family received 160 acres
  - All other members received 80 acres
- Land allotted in checkerboard patterns to break up
  - Extended families
  - Tribal governments
  - Tribal religion
  - Tribal culture
- Over 90 million acres of Indian land was lost

# **Wheeler-Howard Act 1934**

## **(a.k.a. the IRA or the Indian Reorganization Act)**

- This act secured certain rights to Native Americans, including the right for tribes to organize governments and corporations
- Stopped the allotment of land
- Returned unsold surplus land to the tribes
- Over 2 million acres of land was returned to various tribes in the first 20 years after passage of the Act

# Termination and Relocation 1953-1967

- The Federal policy was to abolish Federal supervision over Native Americans and to:
  - Remove Indians from reservations
  - Sell their land
  - Split the money among individual tribal members
- Approximately 61 tribes were stripped of federal recognition

## **Western Oregon Indian Termination Act (1954)**

- Written to terminate 67 tribes

## **Rancheria Termination Act (1958)**

- Written to terminate 40 tribes and Rancherias

Between 1953 and 1964, approximately 109 tribes and Rancherias were terminated

# Termination

- 1,365,801 acres of trust land was removed from protected status and sold to non-Indians
- In 1963, the Federal government stopped the tribal terminations except the Ponca Tribe of Nebraska who were terminated in 1966
- The Ponca fought for Federal recognition from 1967 until they were reinstated on November 1, 1990

# Indian Self-Determination Era 1968–1979

- Act of January 4, 1975—Indian Self-Determination and Education Act
  - Allowed tribes, under a contractual relationship, to assume management of programs, functions, services, and activities of the Bureau of Indian Affairs and the Indian Health Service that previously were administered by these agencies without extinguishing the trust relationship.
  - Tribal self rule
  - Cultural survival
  - Economic development

# Self-Governance

## Where Tribes are Today

- Self-Governance is fundamentally designed to provide Tribal governments with more control and decision-making authority over the Federal financial resources provided for the benefit of Indian people.
- More importantly, it fosters the shaping of new partnerships between Indian Tribes and the U.S. in their government-to-government relationships.
- Self-Governance provides the opportunity for Tribal governments to exercise their sovereignty with minimal Federal intrusion and involvement.

# Indian Policy from 1771 to Present

- Formative Years (1771–1870)
  - 1830 Indian Removal Act
- Allotment and Assimilation Era (1870–1927)
  - 1887 General Allotment Act
  - June 2, 1924—All Native American tribal members became citizens of the United States
- Indian Reorganization Era (1928–1950)
  - June 18, 1934—Indian Reorganization Act (also known as the Wheeler-Howard or the New Deal)
  - August 13 1946—Indian Claims Commission

# Indian Policy from 1771 to Present

- Termination Era (1950–1967)
  - August 1, 1953-House Concurrent Resolution #108
- Act of August 13, 1954—Western Oregon Indian Termination
  - Terminated 67 tribes; more tribes than all other termination Acts
- Act of August 18, 1958—Rancheria Termination Act
  - Terminated 40 tribes and Rancherias.

# Indian Policy from 1771 to Present

- Indian Self-Determination Era (1968–1979)
  - January 4, 1975—Indian Self-Determination and Education Act
    - Allowed tribes, under a contractual relationship, to assume management of programs
    - Tribal self rule
    - Cultural survival
    - Economic development

# Indian Policy from 1771 to Present

- Self-Governance (1980 to Present)
  - 1994, President Clinton issues the first memo on Government-to-Government Relations
  - 1996, E.O. 13007 on Indian Sacred Sites
- 2009, President Obama reissues the memo on Government-to-Government Relations

# Questions?

