

Treaties of Manifest Destiny

By Charlie Kroiss

In the Nineteenth Century the United State saw the realization of a nation that stretched the entire width of the North American Continent. Starting with the Lewis and Clark expedition that concluded in September of 1806 Americans were increasingly recognizing the financial opportunities of the West. American politicians also saw the economic advantages in the Pacific Northwest.

In the mid 1800s the United States would bring their already long-standing use of treaties as an empirical tool of choice for acquiring territory in the Pacific Northwest. It was the view of the United States Congress and the Supreme Court, that United States held eminent domain over the Indian territories between present day Montana and the Pacific Ocean. They also felt that signing treaties with Indians and removing them to reservations, no matter how it was done, was a legal and proper manner in which to conclude America's march to Manifest Destiny. With growing pressure to open even more land, the United States Government would make new treaties and legislate new polices concerning Tribal Treaties, further reducing reservation sizes and numbers. Treaties that started as contracts between sovereign nations would be diminished by Congress into seemingly worthless papers, leaving the once proud American Indians, the unwanted step children of an ungrateful nation. Beginning in the 1940s Native Americans would begin to gain back some of their lost dignity.

According to James H. Lengel's essay *The Role of International Law in the Development of Constitutional Jurisprudence in the Supreme Court: The Marshall Court and American Indians* the question was not who were the original inhabitants of the land. The question was, who had the "right" to claim the territory as their own (Lengel 1999 p.121). Chief Justice John Marshall's opinion in the *Johnson and Graham's Lessee v.*

M'Intosh was that the United States had the right to claim the land through “the law of conquest” (Lengel 1999, p.126). In this case the Plaintiffs were seeking recovery of land that they had purchased from the Piankeshaw Indians, then were evicted from by the Defendant who claimed rights to the land through Patent with the United States. The question that needed to be answered was: did the Piankeshaw have legal title to the land or was it part of the United States domain. This decision would be key to other land issues concerning Native Americans, because at that time Illinois was part of the Northwest Territory not yet incorporated into the original thirteen colonies that made up the United States. Lengel explains, according to Marshall’s opinion, the United States had the right to claim title to the land on the basis of discovery (Lengel 1999, p.126). Marshall’s opinion also states that the Indians are the rightful occupants to the land. However, as Lengel suggests, this would essentially mean that the Native Americans have only occupant rights to the land, rights that could be canceled at the whim of Congress (Lengel 1999, p.127).

Ambitions to force Indians to sign treaties and move onto reservations were met with greatly mixed results. Many Native Americans were reluctant to sign away their land. Clifford E. Trafzer claims in *The Palouse in the Eekish Pah*, that for the Palouse and Nez Perce, “it was literally against their religions to divide the earth” (1985, p.171). Many Nez Perce and Palouse tribes would attempt to peacefully coexist with the white settlers who were encroaching into their territory, but would not sign treaties that would remove them from their homelands. The fact was that they had signed treaties, in 1855 at the Wall Walla council, and those treaties were supposed to have preserved their rights to remain on their land (Trafzer 1985, p.170).

It was the illegal trespass which led to the discovery of gold on Nez Perce Reservation in 1851, and the pressure from white settlers looking for more land that resulted in what would be dubbed the “Thief Treaty” in 1863 (Trafzer 1985, p.170). While two thirds of the Nez Perce Tribes did agree to dramatic reduction of their reservation, it is likely they did not stand to lose much territory. The remaining one third of the Nez Perce Tribes, as well as many of the Palouse Tribes, refused to sign the treaty, as they stood to lose most or all of their land. Due to their refusal, the United States considered non-treaty factions devoid of any treaty rights or protections. It was the short-sighted view of the Government, that one Nez Perce was the same as the next. The Native American arguments at the Lapwai Council of 1877 would fall on uncaring ears of men who shared this limited view. General Oliver O. Howard and Nez Perce Agent John Monteith’s unwavering call for the removal of the non-treaty Indians to the recently shrunken boundaries of the Nez Perce Reservation is likely the final straw that led to the Nez Perce War of 1877. While the war would conclude with the complete removal of the non-treaty Nez Perce and Palouse Indians from their homelands, it also created a hero in Chief Joseph.

This would mark yet a new page in American politics concerning Native American Rights. As in many cases, it is the gross injustices of one upon another that trigger popular support for change. From Chief Joseph’s speech, *An Indians View of Indian Affairs* to congress in 1879, it is evident that he quite clearly understood the ways of American Politics, and their methods of using treaties for empire building. By his reference to his father’s “planting of poles”, he was able to define what the boundaries of their homeland were, and that they were not simply nomadic drifters (Chief Joseph 1879

p.418). Joseph's statement "that the old treaty has never been correctly reported. If we ever owned the land then we own it still, for we never sold it" (Chief Joseph 1879 p.419), showed a clear injustice had been committed with their being removed by force without consenting to alterations to the treaty they had signed. Even with vast public support, including an article in the popular magazine *North American Review* and lobbying on their behalf by the wife of President James A. Garfield, Chief Joseph would never return to his homeland (Trafzer 1985, pp.176-77).

In another now infamous case of injustice, Chief Leschi would have an even worse outcome. He was executed in February of 1858 for the murder of Colonel Abraham Benton Moses during a period of war that stemmed from tribal territory reductions and the Indian fear of being removed by ship to "an imaginary dark and sunless country" (Ezra Meeker p.244). Despite the numerous calls for Leschi's pardon and testimony on his behalf professing his innocence from twelve prominent chiefs including Chief Seattle and over 1,000 Indians under the Medicine Creek Treaty, his sentencing would be carried out (Meeker p.247). It took three trials and a change in the law by the Territorial Legislature to allow for the sentencing to be legally carried (Meeker p.247). The hanging of Leschi would be complicated yet again when Lieutenant Colonel Casey refused to allow the execution to happen on the military reservation of Fort Steilacoom. According to Meeker, he denounced "the contemplated act in no unmeasured terms as murder" (p.248).

The events that led to the Nez Perce war and Leschi's execution highlighted the efforts by Congress and local Governments to consolidate the territories and restrict the liberties granted to Native Americans in treaties. Robert H. Keller Jr's essay *On*

Teaching Indian History: Legal Jurisdiction in Chippewa Treaties states that “Between 1785 and 1867 the United States ratified forty-two treaties affecting various bands of the Chippewas” (Keller 1972, p.211). According to Keller, seventeen of these ratifications had jurisdictional provisions that led to declines of tribal independence, replacing it with increasing amounts of Federal Government legal and moral control (Keller 1972, p.211). Keller includes dates and article numbers of treaty revisions that show the decline of Native American Sovereignty. An example of the rights once enjoyed by Indian nations was the right to punish United States citizens “as they please” for settling in Native American territory (Keller 1972, p.212).

Such an authority may have avoided the Yakima War that touched off in 1855 when Yakima warriors killed miners who raped Yakima Women as the miners illegally crossed their reservation to get to the gold mines near Fort Colville. This, along with the murder of the Yakima Agent Andrew Jackson Bolon, who came to investigate the miners deaths, would lead to the last major Native American Resistance in the Inland Northwest. As stated in *Indian War in the Pacific Northwest The Journal of Lieutenant Lawrence Kip*, this conflict was led by Chiefs Kamiakin and Qualchin both of the Yakima. They had rallied together many other Native Americans who were upset with the aggressive treaty tactics of General Isaac Stevens at the Walla Walla council. While they had some success, with the defeat of Steptoe’s Army in May of 1858, by autumn of that same year their resistance would be broken. It would end with the hanging of Qualchin, the shooting of his father, Chief Owhi, in what was described by Kip as an escape attempt, and Chief Kamiakin’s flight to avoid a similar fate. Kip’s Journal illustrates the United States policy of using treaties against the Native Americans, first by the use of the

murders of Agent Bolon and the miners, and then by raising of arms against the United States as justification of war. Then, as Kip described in the Coeur D'Alene and Spokane Councils, by forcing the Indians to confess to having committed great crimes against the United States for resisting, and requiring them to sign treaties that would restrain them from taking action against any white settlers who entered their territories (Kip 1858, pp.83-84 pp.93-94). In the end their choice of resistance over unchallenged submission may have seemed fool-hardy as it only ended in their defeat and even more stringent treaty restrictions. It may also have reminded the Americans that these were proud people and they should be more sincere in their diplomacy with them as noted by Keller who points out the Yakima only signed one Treaty (1972, p.210).

Other Native Americans, such as Chief Seattle, would recognize that armed conflict would ultimately do more harm than good. While clearly frustrated with the lack of respect being shown to the "red man" (Henry A. Smith 1887 p.3), and showing uncertainty in the liberties promised in the treaty offer, with his statement of the presumption that the Great White Chief was also a good man (Smith 1887 p.3), Seattle signed a treaty. It was Seattle's hope that it would provide his people with protection from enemy tribes and settler encroachment.

However, even signing treaties rarely help the Native Americans protect themselves from settler encroachment and hostility. American Indian rights and territory would increasingly be eroded through the Nineteenth and early Twentieth Centuries. Congressional actions such as the Dawes Act of 1887 would not only reduce reservation sizes but split them into pieces. After the dispersal of these pieces of land to each adult tribe member, the remainder could be sold or leased out to non-Indians. Most Native

Americans who had once freely roamed the Pacific Northwest, would not live to see redemption in Court. In 1855 the United States Court of Claims allowed suit to be brought against the United States. But by 1863 tribal treaty claims would be excluded from this right. Instead they would be forced to go through Congress to get a special jurisdictional act before they could present a claim to the Court of Claims (Nancy Oestreich Lurie, *The Indian Claims Commission Act 1957*, p.56-57). According to Lurie this would create an even greater hindrance to Native American attempts to seek justice through the United States Court, because it added costs to an already expensive process (1957, p.57). Those who did get the jurisdiction to present a claim faced slim odds of favorable results. Of the 118 claims presented between 1881 and 1950, only 34 ended with compensation. In fact it would not be until after WWII with the creation of the Indians Claims Act of 1942, that Native Americans would begin to win back some of their pride through rulings against the United States for treaty violations and gross injustices done to them. The Indian Claims Act was extended twice due to the large number of claims that were brought, concluding in 1962. However many of these injustices have yet to be righted and with the progression of time it seems less likely that they ever will be. It seems more likely that they will become the bad memories of a forgotten tragedy.

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Educational video on Westward Expansion and Manifest Destiny. Produced and narrated by Dave Alexander. Music by Scott Buckley.Â Despite the legality of a treaty, once one was signed, the government often used force to move the Indians from their homelands. Indians were encouraged to sell their vast tribal lands and become "civilized," which meant they should abandon hunting, become farmers, discontinue nomadic lifestyles, become educated in the "white ways," and abandon their "savage" ceremonies and practices. Manifest destiny was a widely held cultural belief in the 19th-century United States that American settlers were destined to expand across North America. There are three basic themes to manifest destiny: The special virtues of the American people and their institutions. The mission of the United States to redeem and remake the west in the image of the agrarian East. An irresistible destiny to accomplish this essential duty. Manifest Destiny was the idea that white Americans were divinely ordained to settle the entire continent of North America. The ideology of Manifest Destiny inspired a variety of measures designed to remove or destroy the native population. US President James K. Polk (1845-1849) is the leader most associated with Manifest Destiny. Manifest Destiny inflamed sectional tensions over slavery, which ultimately led to the Civil War. From sea to shining sea.Â The territory acquired by the United States under the provisions of the treaty include the present-day states of Idaho, Oregon, and Washington, as well as parts of Montana and Wyoming. Map of Oregon territory, showing the present day states of Washington, Oregon, Idaho, and parts of Montana and Wyoming.