

Syllabus for Federal Indian Law

Installment I

Fall 2012

Professor Ann Tweedy

Class: Tues. & Thurs. 4:10-5:40

Office: Room 236E

Office Hours: TBA

Room: 4

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Introduction.

This course is designed to provide students with a basic understanding of the federal government's legal relationship with the tribes that have inhabited the area that now comprises the United States for thousands of years. The role of states and local governments in dealing with tribes is largely determined by the federal government and is also addressed.

In Federal Indian Law more so than in most other areas of the law, a firm grasp of the history of federal-tribal relations is essential to understanding the current legal landscape. Accordingly, the class begins with an exploration of this history, and historical information is also woven throughout the case materials.

Students will gain knowledge of the history of the federal-tribal relationship, including federal policy shifts that have had dramatic and often devastating effects on tribes. Students will also become fluent with concepts such as federal plenary power; the federal trust responsibility; tribal sovereignty and the related concept of tribal sovereign immunity; federal, state, and tribal taxing authority on the reservation; and the viability of tribal treaty rights under federal law. A large segment of the course will be devoted to understanding jurisdictional issues on Indian reservations, particularly tribal jurisdiction over those who are not members of the tribe exercising jurisdiction.

The course will equip students with the basic knowledge necessary to research legal problems involving tribes. In addition to being at the forefront of tribal representation, Indian law issues also come up in representing (1) businesses that engage in projects with tribes or projects located on tribal lands, (2) state and local governments that need to understand the extent of their regulatory power on tribal lands as well as respond to tribal concerns, and (3) federal agencies.

Course Assignments.

Class assignments will be from the required textbook, ROBERT T. ANDERSON ET AL., AMERICAN INDIAN LAW: CASES AND COMMENTARY (2d ed. 2010), to be supplemented by

handouts and other materials.

Grading.

Grading of the course will be based primarily on a final exam. The exam will be open-book and will consist of essay questions.

Class participation (which includes attendance, punctuality, preparation, and professionalism) will also be taken into account in your grade as provided for under Hamline's policies. Please do not surf the web or email during class. This is distracting to me and other students and also counts against your class participation points. Occasionally, there may be class participation assignments (such as to present a case from the reading).

Further Reading.

If you become interested in a topic and want to know more, the following two books are very helpful, and I can also refer you to other sources if you have an interest in a specific area.

A treatise called COHEN'S HANDBOOK OF FEDERAL INDIAN LAW (Netwon et al., eds. 2005), which is periodically updated with pocket parts, is a wonderful and very comprehensive resource. It is also available on Lexis.

Additionally, Judge Canby's FEDERAL INDIAN LAW IN A NUTSHELL is a good place to look for summaries of doctrines and cases.

TWEN Site.

All handouts and course announcements will be posted on TWEN. The password will be announced at the first class.

Assignments.

The first few assignments are listed below. This syllabus is subject to change.

<u>Class</u>	<u>Topic</u>	<u>Read for this Class</u>
1	Course Introduction; Early History	casebook pp. 1-28
2	Federalism and Tribes; <i>Johnson v. McIntosh</i> ; Early Statutes; <i>Cherokee Nation v. Georgia</i>	casebook pp. 28-62
3	<i>Worcester v. Georgia</i> ; The Reservation Period (<i>Ex Parte Crow Dog</i>)	casebook pp. 63-98

4	The Reservation Period <i>continued</i> (<i>U.S. v. Kagama</i>) and contemporaneous perceptions and treatment of indigenous peoples; Allotment and Assimilation (<i>Lone Wolf v. Hitchcock</i>)	casebook pp. 98-121, handout, and article on Louie Sam (Note: Please Download and Read the following article: Keith Thor Carlson, “The Lynching of Louie Sam,” 109 B.C. STUDIES 63 (1996).) It is available free from www.bcstudies.com/archive
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