Federal Law and Indian Tribes

Fall 2008
Professor Fletcher
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Office Hours: Tuesday & Thursday, 3:30-5 & by appointment

Required Text
Getches et al., Cases and Materials on Federal Indian Law, 5th ed. 2005 (West)

Recommended Texts
Canby, American Indian Law in a Nutshell, 4th ed. 2004 (West)

TWEN and Online Materials
Other materials listed in the syllabus will be available on the Turtle Talk Blog (http://turtletalk.wordpress.com/matthew-lm-fletcher/)

Assignments
Class #1 (8/26) – Introduction – Johnson v. M’Intosh
   Getches 1-37, 62-71
   Fletcher, The Iron Cold of the Marshall Trilogy
Class #2 (8/28) – The Cherokee Cases
   Getches 87-88 (Treaty of Hopewell)
   Getches 93-127 (Cherokee Nation v. Georgia & Worcester v. Georgia)
Class #3 (9/2) – The Rise of Federal Power
   Getches 153-84 (Crow Dog, Kagama, Sandoval, & Lone Wolf)
Class #4 (9/4) – Treaties
   Getches 131-38 (U.S. v. Washington & Winans)
   Getches 863-76 (Fishing Vessel)
Getches 876-89 (Great Lakes Treaty Fishing Litigation)

Class #5 (9/9) – **Treaty Abrogation**
Getches 273-95 (**Tee-Hit-Ton & Dann Sisters**)
Getches 323-40 (**Dion**)

Class #6 (9/11) – **Modern Federal Indian Policy Changes**
Getches 186-99 (Indian Reorganization Act)
Getches 199-216 (Termination & **Menominee Tribe**)
Getches 216-26 (Self-Determination)
Getches 663-71 (Indian Child Welfare Act & **Mississippi Band**)

Class #7 (9/16) – **Indian Land Claims & The Problem of “Settled Expectations”**
Getches 295-309 (**County of Oneida v. Oneida Indian Nation**)
**City of Sherrill v. Oneida Indian Nation**
**Cayuga Indian Nation v. Pataki**

Class #8 (Friday, 9/19 – Off Campus Site) – **Federal Recognition of Indian Tribes**
Getches 309-315
**Miami Nation of Indians v. DOI**
Fletcher, **Politics, History, and Semantics: The Federal Recognition of Indian Tribes**

Class #9 (9/23) – **Federal Trust Responsibility & The Limits of Plenary Power**
Getches 345-56 (**Navajo Nation & Cobell**)
**Cobell** Update Materials
Getches 365-76 (**Sioux Nation**)
Fletcher, **Retiring the “Deadliest Enemies” Model of Tribal-State Relations**

Class #10 (9/25) – **Indian Tribes & the Constitution**
Getches 381-88 (**Talton v. Mayes & Wheeler**)
Fletcher, **Preconstitutional Federal Power** [excerpts]
Fletcher, **The Supreme Court’s Indian Problem** [excerpts]
Class #11 (9/30) – Santa Clara Pueblo v. Martinez
Getches 388-405
MacKinnon, Whose Culture? A Case Note on Martinez v. Santa Clara Pueblo
Swentzell, Testimony of a Santa Clara Woman

Class #12 (10/2) – Sovereign Immunity
Getches 405-413
Respondent’s Brief in Wilson v. GTB EDC
Confederated Tribes of Grand Ronde v. Strategic Wealth Management
Foxworthy v. Puyallup

Class #13 (10/7) – Tribal Courts
Getches 414-18 (Williams v. Lee)
Fletcher, Toward a Theory of Intertribal and Intratribal Common Law
Fletcher, Rethinking Customary Law in Tribal Court Jurisprudence

Class #14 (10/9) – (continued)
Getches 428-55 (McDonald II, Francisco, Mishongnovi v. Humeyestewa, & Johnson v. MPGE)

Classes # 15-16 (10/9 & 10) – 5th Annual Indigenous Law Conference

Class #17 (10/14) – Implicit Divestiture
Getches 510-520 (Oliphant)
Getches 537-41 (Montana)
Getches 520-36 (Lara)

Class # 18 (10/16, Kellogg Center) – MSU Identity Conference Law Panel

Class #19 (10/21) – Tribal Civil Adjudicatory Jurisdiction

Class #20 (10/23) – Taxation
Getches 543-49 (Merrrion v. Jicarilla Apache Tribe & Kerr-McGee)
Wagnon v. Prairie Band Potawatomi Nation
Fletcher, The Power to Tax, The Power to Destroy, and the Michigan Tribal-State Tax Agreements

Class #21 (10/28) – Equal Protection & Indian Legislation
Getches 226-56 (Morton v. Mancari & Rice v. Cayetano)
Williams v. Babbitt
Fletcher, The Original Understanding of the Political Status of Indian Tribes

Class #22 (11/4) – Indian Religion
Getches 738-67 (Lyng & Smith v. Employment Division)
United States v. Friday
Navajo Nation v. US Forest Service

Class #23 (11/11) – Tribal Criminal Jurisdiction & P.L. 280
Getches 475-92 (Antelope)
Getches 492-508 (P.L. 280 & Bryan v. Itasca County)

Class #24 (11/13) – Indian Gaming
Getches 722-37 (California v. Cabazon Band)
Fletcher, Bringing Balance to Indian Gaming

Class #25 (11/18) – (continued)
Texas v. United States
TOMAC v. Michigan

Class #26 (11/20) – Tribal Economic Development
Getches 703-11
San Manuel Indian Bingo & Casino v. NLRB
Fletcher, In Pursuit of Tribal Economic Development as a Substitute for Reservation Tax Revenue

Class #27 (12/2) – Federal Trust Acquisitions
Carcieri v. Kempthorne
MichGO v. Kempthorne

Class #28 (12/4) – Indian Law and Supreme Court Adjudication
Fletcher, *Factbound and Splitless: The Impact of the Certiorari Process on Federal Indian Law*

Fletcher, *The Supreme Court and the Rule of Law*

**Other Interesting Dates:**

August 29, 2008 – Student Reception at Singel-Fletcher House (5:30 PM)

September 18, 2008 – Michigan State Bar Indian Law Section Meeting (2 PM)

September 26, 2008 – Michigan Indian Day Law Panel (Time TBD)

September 27, 2008 – Prof. Fletcher Talk @ Michigan Hall of Justice

October 9-10, 2008 – 5th Annual Indigenous Law Conference

October 16-17, 2008 – MSU American Indian Identity Conference (Kellogg Center)

October 25, 2008 – Prof. Fletcher Reading/Book Signing at Everybody Reads (1 PM)