Federal Law and Indian Tribes—Revised Syllabus

10/15/09

Fall 2009

Professor Fletcher

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Office Hours: TBD & by appointment

Required Text
Getches et al., Cases and Materials on Federal Indian Law, 5th ed. 2005 (West)
2009-2010 Teacher’s Memorandum (TM)

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

Turtle Talk Materials
Other materials listed in the syllabus, including the 2009-2010 Teacher’s Memorandum, are available on the Turtle Talk Blog (http://turtletalk.wordpress.com/matthew-lm-fletcher/)

Assignments
Class #1 (8/25) – Introduction – Johnson v. M’Intosh
   Getches 1-37, 62-71
   Fletcher, The Iron Cold of the Marshall Trilogy
Class #2 (8/27) – The Cherokee Cases
   Getches 87-88 (Treaty of Hopewell)
   Getches 93-127 (Cherokee Nation v. Georgia & Worcester v. Georgia)
Class #3 (9/1) – The Rise of Federal Power
Getches 153-84 (Crow Dog, Kagama, Sandoval, & Lone Wolf)

Class #4 (9/3) – Treaties
Getches 131-38 (U.S. v. Washington & Winans)
Getches 863-76 (Fishing Vessel)
Getches 876-89 (Great Lakes Treaty Fishing Litigation)

Class #5 (9/8) – Treaty Abrogation
Getches 273-95 (Tee-Hit-Ton & Dann Sisters)
Getches 323-40 (Dion)

September 10 Class (Rescheduled)
Class #6 (9/15) – 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)

September 17 Class (Rescheduled)
Class #7 (9/22) – Indian Land Claims & The Problem of “Settled Expectations”
Getches 295-309 (County of Oneida v. Oneida Indian Nation)
TM 7-16 City of Sherrill v. Oneida Indian Nation
Cayuga Indian Nation v. Pataki
Class #8 (Friday, 9/24) – 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

September 25 – Michigan Indian Day @ Kellogg Center – ILPC Panel @ 10:15
Class #9 (9/29) – Federal Trust Responsibility & The Limits of Plenary Power
Getches 345-56 (Navajo Nation I & Cobell)
TM at 18-21 (Navajo Nation II)
TM at 21-27 (Cobell Update)
Getches 365-76 (Sioux Nation)

Class #10 (10/1) – 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 (10/6) – 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 (10/8) – Sovereign Immunity
Getches 405-413
Respondent’s Brief in Wilson v. GTB EDC
Confederated Tribes of Grand Ronde v. Strategic Wealth Management
Jones v. Pokagon Band Gaming Authority

Class #13 (10/10) – (continued)
Foxworthy v. Puyallup
Bittle v. Bahe
Colorado ex rel. Suthers v. Cash Advance
Agua Caliente Band v. Superior Court

Class #14 (10/15) – Tribal Courts and Tribal Law
Getches 414-18 (Williams v. Lee)
Supplemental Tribal Law Materials

Class #15 (10/20) – Implicit Divestiture
Getches 510-520 (Oliphant)
Getches 537-41 (Montana)
Getches 520-36 (Lara)
Class #16 (10/22) – **Tribal Civil Adjudicatory Jurisdiction**


TM 60-73 ([Plains Commerce Bank v. Long Family Land and Cattle Co.](#))

Class #17 (10/27) – **Taxation**


TM 50-60 ([Wagnon v. Prairie Band Potawatomi Nation](#))

Fletcher, *The Power to Tax, The Power to Destroy, and the Michigan Tribal-State Tax Agreements*

October 29, 2009 Class Cancelled

Class #18 (11/3) – **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 #19 (11/5) – **Indian Religion**

Getches 738-67 ([Lyng & Smith v. Employment Division](#))

TM 77-84 ([Navajo Nation v. US Forest Service](#); [United States v. Friday](#))

Class #20 (11/10) – **Tribal Criminal Jurisdiction & P.L. 280**

Getches 475-92 ([Antelope](#))

Getches 492-508 (P.L. 280 & [Bryan v. Itasca County](#))

Class #21 (11/12) – **Indian Gaming**

Getches 722-37 ([California v. Cabazon Band](#))

TM 74-76 ([Texas v. United States](#))

[TOMAC v. Michigan](#)

[TOMAC v. Michigan](#)

[TOMAC v. Michigan](#)

Class #22 (11/17) – **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*

TM 34-36 (Singel, *Cultural Sovereignty and Transplanted Law*)

Class #23 (11/19) – **Federal Trust Acquisitions**

TM 36-47 (Carcieri v. Salazar)

MichGoO v. Kempthorne (dissent)

**Fall Break (November 22—November 29)**

Class #24 (12/1) – **Intergovernmental Relations**

Fletcher, *Retiring the “Deadliest Enemies” Model of Tribal-State Relations*

Fletcher, *Reviving Local Tribal Control in Indian Country*

Class #25 – **Review Session (Date, Time, and Location TBD)**

**Other Interesting Dates:**

September 17, 2008 – Michigan State Bar Indian Law Section Meeting (2-4 PM)

November 13-14, 2009 – Great Lakes History Conference @ Grand Valley State University, featuring Sherman Alexie (11/13 at 7PM)

December 2-3, 2009 – Building Strong Sovereign Nations (Odawa Casino)