

Indian Law “Before & After” - Joseph Marshall III -

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Well, that's always been a mystery to me. I've never understood. I'm not, you know, I'm not a lawyer.

So I don't understand, you know, fully the ramifications of all of that, but I do know this, that even today we're living the consequences of all of that, you know, the 1851 Treaty, the 1868 Treaty, where we're concerned, and then the 1887 Dawes Act, the Citizenship Act, and I often wonder if, you know, and the Citizenship Act was not just for us, it was for everybody, all natives, and they said, well, it's because your young men did so well in World War I, we want to make you citizens. I guess that was the premise, that's what I hear.

But if the question had been put to us individually as tribes, do you want to be citizens? I think some of us would have turned it down. Some of us would have said no. But we didn't get that opportunity. The law was passed, and there's this broad brushstroke that says, now you're citizens. We just didn't have that opportunity to debate it. We were, one day we weren't, the next day we were, and so that has, you know, consequences down the line. And what it did was diminish our sovereignty. But we have to think about this. We talk about Indian law.

But there's the Indian law after, from that point where the United States government began to enact those kinds of things, the treaties and acts that affected our lives. There's been Indian law since then, and there's Indian law before that. The social norms and the things that we developed as a culture over time, those rules and norms that we lived by before the Europeans and the Americans came along, that was Indian law before that. And there's been Indian law since then. So we need to make that distinction. We can't forget what those were before.

And certainly it's important to remember, all those things that affect us now, we have to contend with that day in and day out, all the time. The tribal governments have to do that. And we should be aware of it. We should teach that in our school, to our native kids. You know, what the Dawes Act was, how it impacted us.

I hear the story of, before the Dawes Act, after 1877, we were put up here on all the different reservations, because of, after the killing of Crazy Horse, there was a fear that there would be an uprising, so they scattered us all over the reservations, western South Dakota, and put us on the different reservations. And on my reservation, there's a story of people, you know, kind of migrating up and down the Little White River. You know, in their teams and wagons.

You know, they would go and live for a while here, visit relatives, and go up and down from Screen Creek all the way to the Big White. And then once the Dawes Act came, and the allotment, you know, they surveyed the land in individual plots. We couldn't do that anymore. So that stopped that. So, you know, that had that kind of an impact. So it had those kind of things all over the place. But we don't teach that enough in our schools, you know. Pre-European and after. Pre-American and after America. We have to make that distinction.

I think it's important.