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**OFFICIAL CURRICULUM OF AMERICA'S 400<sup>TH</sup> ANNIVERSARY**  
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**European and Indian Views of Land Ownership**  
Prepared by the University of Virginia Center for Politics

**Purpose:** Differing views of land usage and ownership have been a basis for conflict throughout American history. By analyzing the perspectives of American Indians and Europeans towards land ownership during the colonial period, students develop an understanding for the conflicts that arose with the establishment of European settlements. This conflict is followed throughout United States history, allowing students an opportunity to examine the process by which freedom was denied and the efforts made by citizens in a democracy to restore freedom.

**Objectives:**

1. Students will compare and contrast American Indian and European views of land ownership using Jamestown as a case study.
2. Students will examine public policy decisions regarding land ownership in order to determine the extent to which cultural differences have caused rights to be denied.
3. Students will analyze the effects of these policies on present day Indian communities in order to discuss the process by which a democracy evolves to meet the needs of more of its citizens.

**Materials:**

1. Teacher Transparency, *Peaceable Kingdom*, Edward Hicks, 1834. National Gallery of Art, Washington, DC
2. Teacher Transparency, *Captain John Smith's Map of Virginia*
3. Teacher Transparency, *Spanish Arrival in Florida*
4. Teacher Transparency, *Establishing Authority in the New World: English Justification for Land Ownership*
5. Student Handout, *American Indian and European Views of Land Ownership*
6. Student Handout, *United States Policies Regarding Indian Land Rights*
7. Student Handout, *If We Should Travel*
8. Student Handout, *Living on the Reservation*
9. Teacher Rubric, *Writing Prompt Rubric*
10. Student Handout, *Justices Affirm Property Seizures*

**Key Terms:**

Private Property

Divine Right

Monarch

Sovereign State

Unmovable Earth

Communal ownership

Eminent Domain

**Procedure:**

1. **Warm Up/Motivation.** Display the painting, *Peaceable Kingdom* by Edward Hicks, which is included on the teacher transparency included with this lesson. Direct the students to use a freewriting technique to describe what they see taking place in the painting. Students should work silently for five minutes, filling their papers with any ideas, questions, or observations made about the painting. At the end of the five minutes, have them discuss their observations with a partner. Following the freewriting session, examine the following questions as a class.

- Hicks, in this 1834 painting, is trying to portray America as the “chosen land” of biblical reference. In looking at the painting, who do you think the artist assumes are the chosen people? Why would he assume this? Was this the view of a majority of Americans in the 19<sup>th</sup> Century?
- What does the design of this painting suggest about the relationship between Indians and Europeans? What evidence supports this idea?
- In your opinion, what is the artist trying to communicate about the establishment of colonies such as Virginia?
- From examining this painting can we make any assumptions about European and Indian ideas about land usage?

Students responses might include that the inclusion of wild animals may suggest that the land was “wild” “uncultivated” and that the arrival of the Europeans may have been seen as a “civilizing” factor since they, according to the artist, are the chosen people. This view will be challenged throughout the lesson by comparing Indian and European attitudes towards land ownership.

2. Project the transparency, *Captain John Smith’s Map of Virginia*. John Smith traveled extensively throughout the area and created this map which shows the locations of the over thirty tribes with their cities and capitals.
- How does Captain Smith’s map support or contradict the assumptions we made when examining *Peaceable Kingdom*?
  - If these civilizations were already in existence in Virginia what gave the English monarch the right to colonize?
  - What made the Europeans think that the land was theirs for the taking? Do you think they were right in their assumption?
  - As representative government was beginning to take root in Jamestown, how did these ideas prevent Indians from being given the same rights as the English?

Place the transparency, *Establishing Authority in the New World: English Justification for Land Ownership*, on the overhead and review so that students can identify the motivations for the English to take Indian lands.

3. Display the teacher transparency, *Spanish Arrival in Florida*.
  - What appears to be going on in the painting? What do you think is really going on in the minds of the participants?
  - What objects appear to be Indian? European? How can we tell?
  - Describe the relationship between the Spanish and Indians as suggested in the painting.

Distribute the student handout, *Indian and European Views of Land Ownership*. Divide the students into pairs asking them to divide the reading so that one student is reading from the Indian perspective and the other from the European perspective. Have them complete the corresponding section of the Venn diagram. Working with their partners, students should compare and contrast the Indian and European views to complete the Venn diagram. Students will begin to visualize the problems caused by conflicting views of land ownership.

Distribute the student handout, *If We Should Travel*. Students should read the Cherokee creation tale. Ask them to discuss the similarities and differences between the ideas expressed in this piece of literature, the paintings and the map.

Refer back to the painting. Ask students to use their knowledge of Indian and European ideas of land ownership/usage to hypothesize on the following questions.

- What Indian concepts of land are reflected in this painting? What evidence supports this?
  - How does this painting from 1564 reflect European attitudes about land ownership? What evidence supports this?
  - Discuss any conflicts that might arise from this encounter.
  - What do you think will be the result of land conflicts between Europeans and Indians? Why will this occur?
4. Place the following phrase on the board and ask students to comment on its meaning.

“Indians who ... annoyed the frontiers.”

( Richter, Daniel. *Facing East From Indian Country*. Harvard University Press: Cambridge, MA, 2003. p. 108)

    - Why were the Indians “annoying” white settlers? How were the settlers “annoying” the Indians?
    - How does this reflect European attitudes towards Indian lands?
    - How has the US government used the idea of **eminent domain** to deny Indians their rights?

Throughout American history European or white Americans sought to move the Indians to the “frontiers” so that they could take their lands for development. The European idea of development was in direct contrast to Indian ideas of communal land usage. Have the students research Indian policies enacted by the United

States government. Some of these programs were intended to improve rights for American Indians. Describe why these policies failed to solve the issue of ownership and correct the displacement of Indian culture.

To complete the research, distribute the student resource sheet, *United States Policies Regarding Indian Land Rights*.

Divide the students into groups to research one of the acts. Links are suggested for research on the resource sheet. Students are asked to record the purpose of each of the acts and to evaluate the effectiveness of the policy in resolving the conflict over land ownership. Create new groups of three with one group member from each research group. In their new group students should interview each other to complete their charts. After recording the information groups should evaluate the effectiveness of these by discussing the following questions:

- How did these policies originate? Who benefited from them? Describe the connection between the formation of public policy and those who benefit from it?
- How effective were these policies in achieving their purpose?
- What were the effects of these policies on the Indians?

5. Distribute the student handout, *Living on the Reservation*. This is a chapter from the book *We're Still Here: Contemporary Virginia Indians Tell Their Stories*. After reading the article present the students with the following writing prompt and have them reflect on the objectives of this lesson. A writing rubric is included to aid with assessment. Alternate assessments might include an illustrated journal, a song, poem, or graphic organizer addressing the bullet points.

Write a journal entry from the point of view of a piece of land in colonial America. Address the following in your journal entry:

- Describe your appearance and usage at the time of the settlement at Jamestown, and how it changed with the arrival of the English.
- Discuss the differences between European and Indian ideas of land ownership and the conflicts that evolved from these differences.
- Comment on how these differences affected Indians throughout history and the ways in which Indians are trying to rebuild their communities.
- To what extent is a democracy responsible for restoring property rights to those who have been dispossessed?

### **Extension Activity:**

Examine the issue of eminent domain by distributing the student handout, *Justices Affirm Property Seizures*. Provide students with the following definition of eminent domain:

**Eminent domain-** The right of the government to appropriate (take) private property for the public use, usually to the compensation of the owners.

Have the students think of reasons why the government might take privately owned land. Some examples: to build stadiums, to revitalize old neighborhoods, etc.

- What is meant by public use?
- What criteria are used to determine whether land can be taken?
- How would you feel if your home was taken by eminent domain?
- What could you do about it?

Direct the students to read the article and identify the arguments for and against the Supreme Court ruling. (If necessary have the students read the Fifth Amendment to the Constitution.) As an exit slip have the students support or reject one of the following in a paragraph.

“The court should not “second guess” local governments... promoting economic development is a traditional and long accepted function of government.”

Justice John Paul Stevens

“The specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory... (This decision) favors those with disproportionate influence and power in the political processes, including large corporations and development firms.”

Justice Sandra Day O’Connor

## Peaceable Kingdom



### Technique: Free writing

Work silently for five minutes, writing down any and all observations, questions, and ideas about the painting

After the five minutes is up, discuss your observations with a partner.

# Captain John Smith's Map of Virginia



## Spanish Arrival in Florida



Jacques LeMoyne, *Laudonnius et RexAthore ante Columnam a Praefecto Prima Navigatione Locatam Quamque Venerantur Floridenses*, June, 1564.  
New York Public Library, New York.

What appears to be going on in the painting?

What objects in the painting appear to be Indian? European? How can we tell?

Describe the relationship between the Spanish and Indians in the painting.

## Establishing Authority in Virginia: English Justification for Land Ownership

Royal Patent granted to Sir Humphrey Gilbert in 1578 and renewed by Sir Walter Raleigh.

*“discover...such remote, barbarous, and heathen lands, countries, and territories not possessed by any Christian prince or people not inhabited by Christian people and the same to have, holde, occupy and enjoy.”*

- Formalized and authorized English settlement
- Focused on the land, not the inhabitants

Reasons why the English believed that they could claim ownership of Virginia:

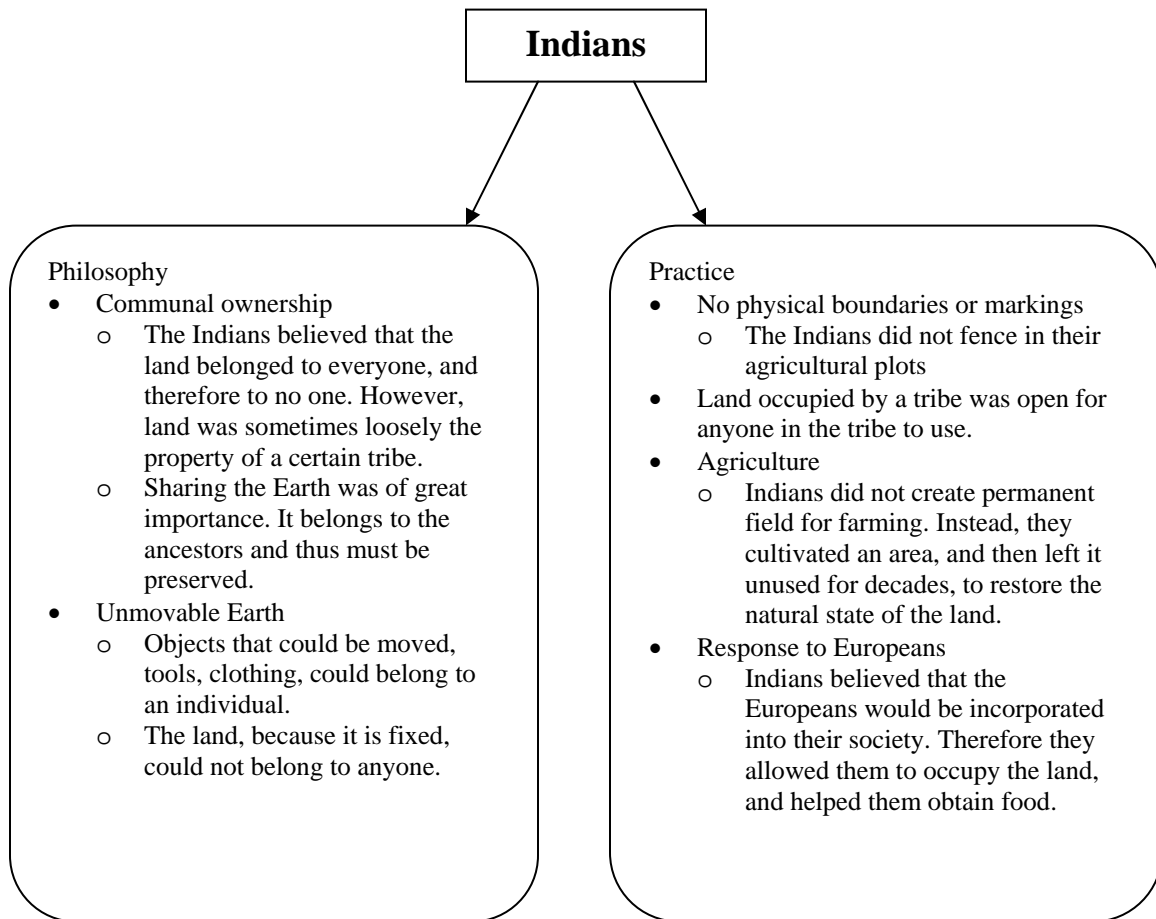
1. Authority of the Crown- The monarch’s (Queen Elizabeth I) authority derives from a direct and personal relationship with the ultimate source of power (God) or a divine right. The Queen was bestowed with “especial grace (royal authority), certain science (knowledge), and mere motion” which made her superior to other individuals.
2. Absence of dominion over the lands by a Christian ruler- In the European mind, Christian rulers had eminent domain over the lands of North America. This meant that because they had been chosen by God, they were the only ones who had legitimate claims to the land.
  - In the patent, “people” only refers to Christians
  - Disregards the original inhabitants of the North America (Indians) because they are not Christian

Important Note: English occupation of the land was not contingent upon converting the Indians to Christianity.

## Indian and European Views of Land Ownership



The American Indians and the Europeans both had very different ideas about the ownership of land, and how that land should be used. These differences resulted in serious conflicts between the Indians and the Europeans.



## **Indian and European Views of Land Ownership** Continued

### **In Their Own Words – American Indians**

⇒ “No tribe has the right to sell, even to each other, much less to strangers...Sell a country! Why not sell the air, the great sea, as well as the earth? Didn't the Great Spirit make them all for the use of his children?” - *Tecumseh*, Shawnee

⇒ “But, because for the Lakota there was no wilderness, because nature was not dangerous but hospitable, not forbidding but friendly, Lakota philosophy was healthy-- free from fear and dogmatism [intolerance]. And here I find the great distinction between the faith of the Indian and the white man. Indian faith sought the harmony of man with his surroundings; the other sought the dominance of surroundings.

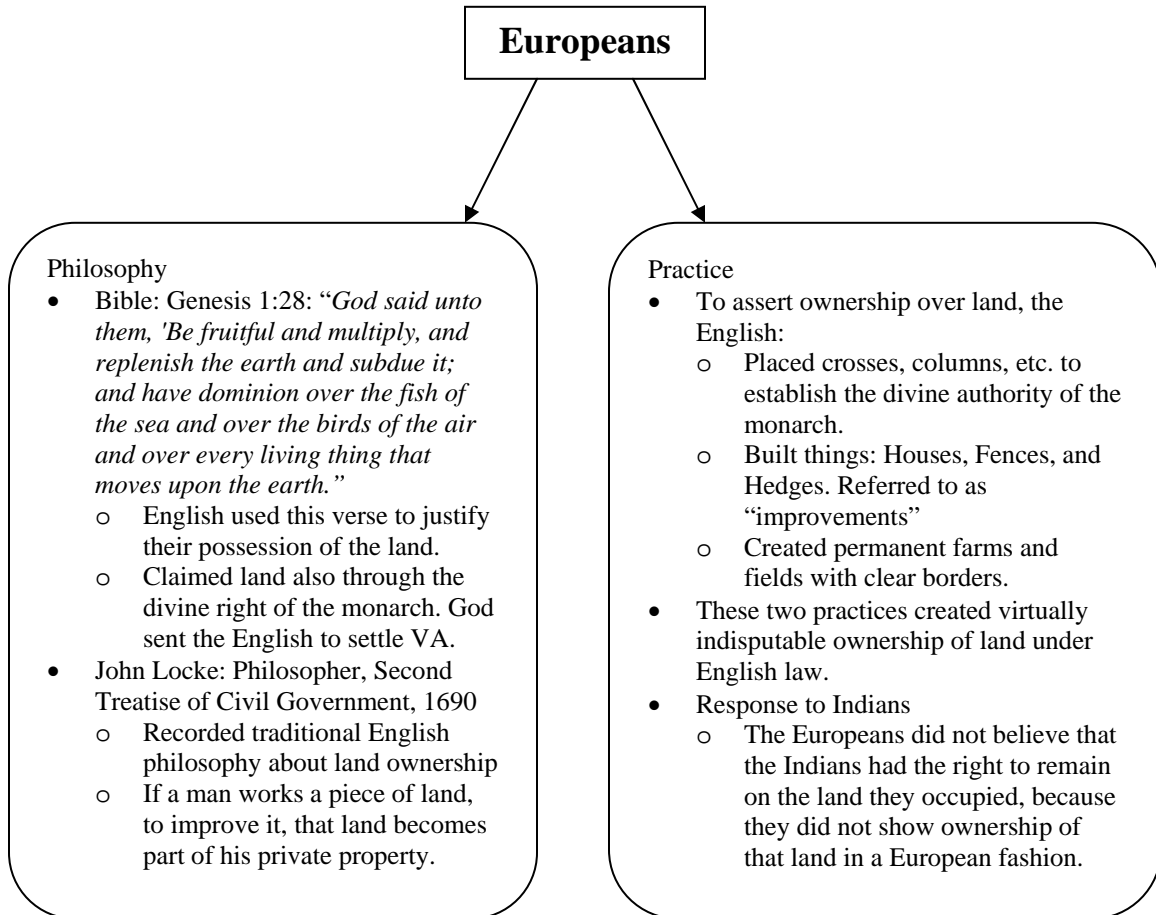
“In sharing, in loving all and everything, one people naturally found a due portion of the thing they sought, while, in fearing, the other found need of conquest.

“For one man the world was full of beauty; for the other it was a place of sin and ugliness to be endured until he went to another world, there to become a creature of wings, half-man and half-bird.

“Forever one man directed his Mystery to change the world He had made; forever this man pleaded with Him to chastise his wicked ones; and forever he implored his God to send His light to earth. Small wonder this man could not understand the other.

“But the old Lakota was wise. He knew that man's heart, away from nature, becomes hard; he knew that lack of respect for growing, living things soon led to lack of respect for humans, too. So he kept his children close to nature's softening influence.” - *Chief Luther Standing Bear*, Oglala Sioux

## Indian and European Views of Land Ownership Continued



### In Their Own Words – European Americans

⇒ “The true foundation of republican government is the equal right of every citizen in his person and property and in their management.” --- Thomas Jefferson to Samuel Kercheval, 1816. ME 15:36

⇒ “A right to property is founded in our natural wants, in the means with which we are endowed to satisfy these wants, and the right to what we acquire by those means without violating the similar rights of other sensible beings.” --Thomas Jefferson to Pierre Samuel Dupont de Nemours, 1816. ME 14:490

⇒ “But the *chief matter of property* being now not the fruits of the earth, and the beasts that subsist on it, but *the earth itself*; as that which takes in and carries with it all the rest; I think it is plain, that *property* in that too is acquired as the former. As *much land* as a

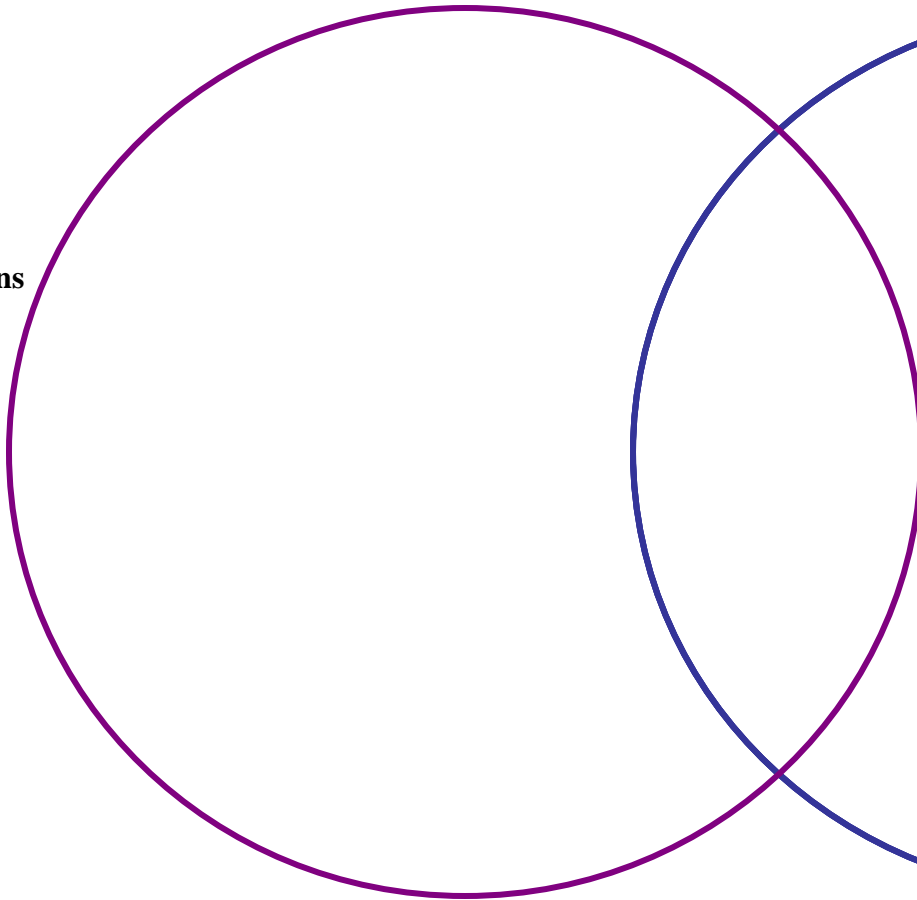
man tills, plants, improves, cultivates, and can use the product of, so much is his *property*. He by his labour does, as it were, inclose it from the common. Nor will it invalidate his right, to say every body else has an equal title to it; and therefore he cannot appropriate, he cannot inclose, without the consent of all his fellow-commoners, all mankind. God, when he gave the world in common to all mankind, commanded man also to labour, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth, i.e. improve it for the benefit of life, and therein lay out something upon it that was his own, his labour. He that in obedience to this command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his *property*, which another had no title to, nor could without injury take from him. – Locke, *Second Treatise of Civil Government*, Section 32.

*“In no other country in the world is the love of property keener or more alert than in the United States, and nowhere else does the majority display less inclination toward doctrines which in any way threaten the way property is owned.”* - Alexis de Tocqueville

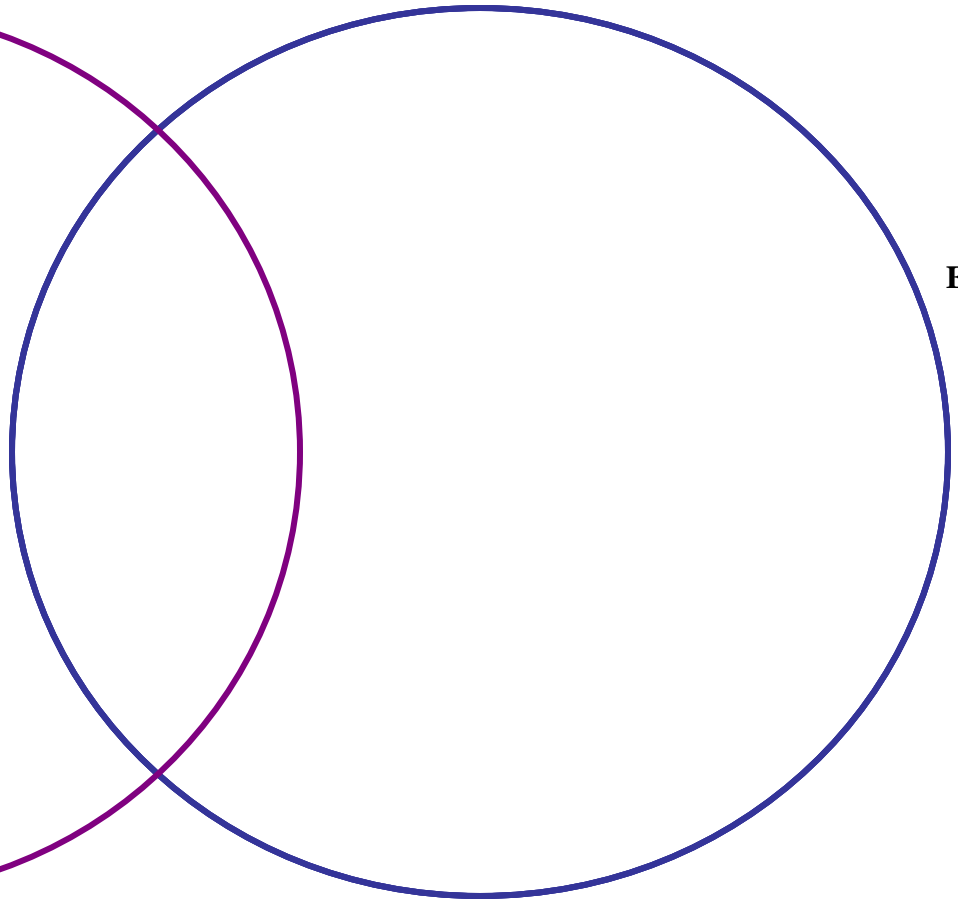
- Who is the “majority” that Alexis de Tocqueville is referring to?
- Is Alexis de Tocqueville’s statement still true today?
- Why are Americans so concerned with property ownership?

**American Indian and European  
Views of Land Ownership**

**Indians**



**Europeans**



## **United States Policies Regarding Indian Land Rights**

### **Dawes Severalty Act**

- <http://www.pbs.org/weta/thewest/resources/archives/eight/dawes.htm>
- [http://college.hmco.com/history/readerscomp/rcah/html/ah\\_023300\\_dawesseveral.htm](http://college.hmco.com/history/readerscomp/rcah/html/ah_023300_dawesseveral.htm)
- <http://www.ourdocuments.gov/doc.php?flash=true&doc=50>

### **Indian Removal Act**

- <http://www.pbs.org/wgbh/aia/part4/4p2959.html>
- [http://en.wikipedia.org/wiki/Indian\\_Removal\\_Act](http://en.wikipedia.org/wiki/Indian_Removal_Act)
- <http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=004/llsl004.db&recNum=458>

### **Indian Reorganization Act**

- <http://www.infca.org/tribes/IRA.htm>
- <http://www.encyclopedia.com/html/I/IndianReo.asp>
- <http://historymatters.gmu.edu/d/76/>

### **Lyng v. Northwest Indian Cemetery Protective Alliance**

- [http://caselaw.lp.findlaw.com/scripts/printer\\_friendly.pl?page=us/485/439.html](http://caselaw.lp.findlaw.com/scripts/printer_friendly.pl?page=us/485/439.html)

### United States Policies Regarding Indian Land Rights

**Dawes  
Severalty  
Act**

**Indian  
Removal  
Act**

**Indian  
Reorganization  
Act**

**Lyng v. Northwest  
Indian Cemetery  
Protective Alliance**

**Year**

**Purpose**

**Cultural  
Conflict  
and  
Result**

## If We Should Travel

If We Should Travel  
far to the South  
there in the land  
of mountains and mist,  
we might hear the story  
of how Earth was first shaped.

Water Beetle came out  
to see if it was ready,  
but the ground was  
still as wet as a swamp,  
too soft for anyone to stand.

Great Buzzard said, "I will help dry the land."  
He began to fly close above the new Earth.  
Where his wings came down,  
valleys were formed,  
and where his wings lifted,  
hills rose up through the mist.

So the many rolling valleys and hills  
of that place called the Great Smokies  
came into being there.  
And so it is that the Cherokee people,  
aware of how this land was given,  
know that the Earth is a sacred gift  
we all must respect and share.

*Cherokee*

### “Living on the Reservation”

From *We're Still Here: Contemporary Virginia Indians Tell Their Stories* by Sandra F. Waugaman and Danielle Moretti-Langholtz, Ph.D.



A model of a yehakin at Jamestown in the recreated Powhatan Indian Villiage.

**Yehakins** are large one-room shelters made of dried grass mats sewn together over bent, tied saplings.

Misconceptions are a daily challenge to Virginia Indians. “You can see it in their eyes,” says Bill Miles, chief of the Pamunkey Indians. “When people visit our reservation they all look around. They’re looking for the tepees.” He adds, “Well, the Pamunkey never did live in tepees, not even in the 17<sup>th</sup> century. They lived in long-houses and today we live just like everyone else.”

The houses on the reservation in King William County do look like houses in any rural community in Virginia. There are TV antennas, a satellite dish here and there, wash hanging on clotheslines, and small trucks and SUVs parked in the driveways. But this is not any rural community in Virginia. The Pamunkey and the Mattaponi Reservations, just a few miles away, are two of the oldest Indian reservations in the United States.

Once you cross into the reservations you leave Virginia and enter a state within a state. Chief Miles says, “The reservations were established as sovereign states by treaty with the British Government, before there was a United States. We deal with state and local governments on a state-to-state basis.”

There were several treaties with the British; some restricted the Indians’ movements, other established reservations. A 1646 treaty prevented Indians from entering English settlements. The only ones allowed onto the land controlled by the English were messengers sent by the chiefs, and they had to wear striped coats to identify themselves. Eventually the striped coats were replaced with badges inscribed with the name of their chief. In this same year, it became an offense punishable by death to entertain or conceal Indians within the bounds of English-controlled territory.

In 1650 another treaty reserved land for Indian towns, allowing 50 acres per warrior. In following years other laws were passed, and the land reserved for the Indians grew smaller and smaller.

In May of 1677, a treaty was signed by many Indian leaders at Middle Plantation. By signing this treaty the Indian leaders acknowledged their subjection to the King of England and they agreed to *“pay their Tribute to the Right hon’ble his Ma’ties Govern’r for the time being.”* Article seven of this treaty ensured *“That the said Indians have and enjoy their wonted conveniences of Oystering, fishing, oats, rushes Puckoone, or any thing else for their natural Support not usefull to the English, upon the English Devidends.”* It also stated that before they entered those areas they had to inform a public magistrate of their intentions, receive a certificate, and then go directly home *“without wearing or carrying any manner of weapon, or lodging under any Englishman’s dwelling house on night.”*

This treaty also established six reservations. Gradually, for a variety of reasons, most of the tribes lost their reservations.

**November 1999:**  
Governor and Mrs. Gilmore at the ceremonial payment of taxes.



By 1748, the Pamunkey and the Mattaponi were the only tribes that still lived on the land held in trust for them by what had become the state of Virginia. They never owned the land under the trust agreement; therefore, they never had to pay state, property, or real estate taxes. The Indians continued to adhere to the terms of the 1677 treaty, and after the Revolutionary War that tribute was (and still is) paid to the governor of Virginia.

The Mattaponi and Pamunkey reservations are governed by an elected chief, one or more assistant chiefs, and a tribal council.



William "Swift Water" Miles,  
Chief of the Pamunkey

The chief of the Pamunkey, William "Swift Water" Miles, was not born on the reservations. It has never been easy to make a living in a rural county like King William, and during the depression it became almost impossible. In hopes of finding a better economic situation in the North, the Miles family moved to New Jersey. His father returned in 1976, was elected chief in 1984, and served as chief until 1990. Chief Miles returned to the reservations in 1982 and was elected chief in 1990.



Webster "Little Eagle" Custalow,  
Chief of the Mattaponi

One of the duties of the chief of the reseruated tribes is to make the tribute presentation to the governor. Originally the treaty specified that the Indians present three arrows and twenty beaver pelts. In the past few years the arrows and pelts have been replaced with an offering of game, usually a deer, and pottery or a "peace pipe." Once scheduled for March, the ceremony now takes place the day before Thanksgiving.

An offering of game is presented during the 1999 ceremony.

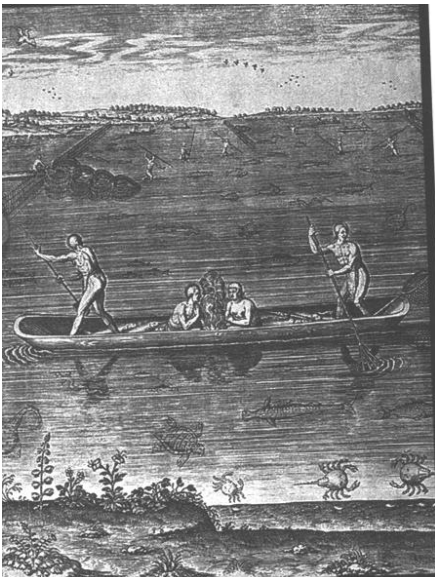


It has always been important to the Indians to adhere to the conditions for the tribute set forth in the treaty, and sometimes they have had to go to extreme measures to meet those conditions.

Chief Miles remembers one year when it was particularly difficult to obtain the game for the tribute. “We always have a big hunt the week before Thanksgiving. Members of the tribe who do not live on the reservation come back, and we hunt turkey and deer. Usually we get enough to give the governor a nice deer, and have enough game for others to eat during the winter. But one year, we couldn’t find anything, no deer, no turkeys – nothing. My dad was chief then, and he knew we had to have something to present to the governor; so he went to a turkey farm, bought a live turkey, brought it back to the reservation and killed it. That way we were able to fulfill the terms of the treaty – after all it was killed on the reservation.”

## Taxes

People often think that Indians living on a reservation do not pay any federal or state taxes. Carl “Lone Eagle” Custalow, assistant chief of the Mattaponi, says, “The only taxes we do not pay are property taxes and income taxes on anything we produce on the reservation. If we catch fish from the Mattaponi River and sell them, we don’t pay taxes on that money. But I work away from the reservation, so I pay the same income taxes as



everyone else. And there is a catch to not paying property taxes. When you live on the reservation you don’t actually own the land your house is on. The land is held in trust for the tribe by the State of Virginia. So when you go to get financing to build a house, it’s difficult because you don’t have the deed to the property. That’s why I built my house myself. It took me ten years, but I finally did it.”

## Fishing

Assistant Chief Custalow was born at his parent’s home on the Mattaponi Reservation along with his eight brothers and sisters. He remembers that his family worked hard just to survive. “Our only means of income was farming or the river. Everyone had their own garden, and a cow for milk and butter.

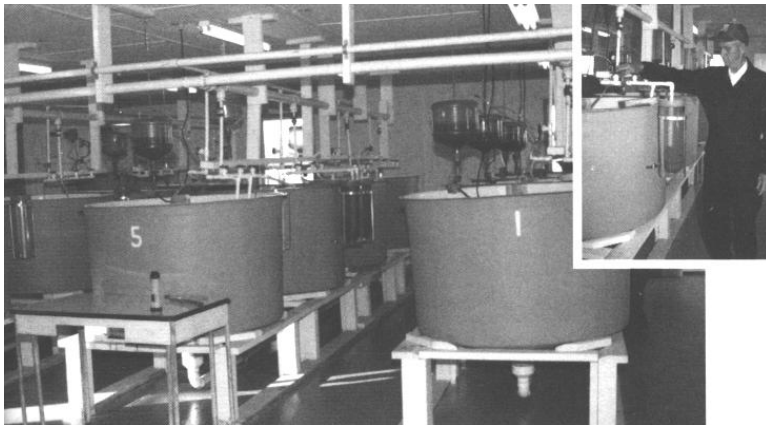
We hunted different animals, and raised our own hogs. Each house had a garden plot, and we grew vegetables that were canned for the winter. Back then we didn't have as many houses on the reservation, but had a lot of kids. And the kids all worked in the gardens, and had their chores. Everyone worked in harmony; the whole family worked together. It was not girls doing this or boys doing that. The girls fished and did their chores just like the boys."

Fishing on the Mattaponi and Pamunkey Rivers is part of the Indians' traditional heritage. From the very beginning the early settlers wrote about the methods they observed. They recorded that Indians used traps (or weirs) and nets. In addition, a 16<sup>th</sup>-century engraving by Theodore DeBry (above) showed Indians fishing at night, burning fires in their boats to attract the fish, which they then speared.

Some of the old methods continue to be used, and some of the earliest memories Assistant Chief Custalow has are of fishing. His father taught him to fish, and most children on the reservation learned to fish. Now, in the 21<sup>st</sup> century, the Indians are still fishing with gill nets during the shad and herring runs in the spring.

The Mattaponi is a tidal river. Four tides make a day, with high water every seven hours and low every five. People usually fish all four tides. Assistant Chief Custalow explain, "when I was young the nets were made out of cotton, and the fish would make knots in the nets trying to get out. We called them tangles, and they had to be cleared before you could fish the next tide. As a kid we were always glad to see shad season over, because we could be sound asleep, and Daddy would come home at 1 a.m. and wake us up to clear his nets. He had to get some sleep before the next tide, but we had to get up and go to school the next morning. And if there were nine kids, nine kids got up and cleared those nets."

As a child it just seemed like hard work, but looking back he remembers that it was also a beautiful sight. Although they did not use fires to attract the fish, there were still fires on the river. The fish started to run when it was still pretty cold, especially at night. "Sometimes we built a fire in the boat to stay warm. Now that I think about it, I guess it was dangerous because we took a can of kerosene, put a rag in it, and lit it. We also built fires on the shore. If a net got messed up, we had to come in to shore to untangle the net, and we needed the fire for light. We also used lanterns to keep track of the nets. Because it was a tidal river a net might drift off, so we made a lantern board and put a lantern on it and tied that onto each end of the net. When I was a kid you could walk down here at night and it looked like a little city with the lights out there. It was a sight to



see. There were ten or twelve fishermen, and each one had four or five nets so there were lots of lights. It was a beautiful sight."

Assistant Chief Custalow still fishes, but not with cotton nets. Nylon nets replaced the cotton, and now the nets are made out of monofilament, which doesn't tangle. He still uses

some of the nylon nets in addition to his two-monofilament nets. He continues to attach a lantern to each net at night to see where it is, but now he only uses one lantern per net.

### Shad Hatchery

Indians have always believed that you can't just take from the land, you have to give back for future generations. When commercial fishermen catch a spawning shad, they sell it – eggs and all. But the Indians use those eggs to help new fish hatch. To do this, the Mattaponi built a shad hatchery on the Mattaponi River in 1916, and the Pamunkey built one on the Pamunkey River in 1918.

Chief Miles explained that when the shad are caught fishermen take a female fish and run their hands down the belly to milk the eggs into a bucket of river water they have in their boat. Then they take a buck shad and milk the sperm out of him into the same bucket. He said, "When the bats come in to shore, the buckets are emptied into special tanks. You can actually watch the eggs swell up. It takes about three to five days for the eggs to hatch out, and then they look like little dots. For 21 days they are fed brine shrimp, and then they are flushed out into the river. There are fifteen tanks. In the center of each tank is a tube connected to a pipe that leads to the river. When the time is right, the tube is pulled up and everything goes out into the river. It's just like pulling up a stopper in a bathtub. Last year we got a grant from the Chesapeake Bay Program to expand our hatchery from three holding tanks to fifteen." Chief Miles estimates that in 1998 they put seven million fry back into the river, and in 1999 that probably tripled.

### Education

At one time both reservations had their own schools. The agreement was that if the Indians built a school the State of Virginia would supply books, a teacher and food for lunch to each reservation. By 1955 there were not enough children at the Pamunkey Reservation to justify a school. It was closed, and the Pamunkey children were bused to the one-room school on the Mattaponi Reservation. As desegregation was implemented in Virginia in the 1960s, the Mattaponi school was closed too, and the children began to attend the King William County Public School.

Assistant Chief Custalow remembers going to the Mattaponi school. "They had one teacher for the first eight grades, and one teacher for grades nine through twelve. We really didn't learn a lot. The teacher didn't have much time to teach. About all she had time to do was give you homework and take up papers." He left the reservation to attend high school in Richmond, and eventually graduated from the University of Richmond.

Although he understands the teachers were not properly educated about Indians, Custalow can't help expressing his resentment about one particular incident. "In the fourth grade we learned about Virginia history. And our teacher told us about the colonists and Indians, and that the Indians were all savages. Here we were, in our own school, on our own reservation, being taught we were savages. At time it didn't dawn on us what was going on, but now I'd like to turn back time and teach history right. Those history books were written from one perspective, and by repeating what was written down by people who were our enemies. They called themselves superior. But we were the ones who taught them how to survive in the land, and we learned their language – they couldn't learn ours."

## Writing Rubric: Land Ownership

### Score: 4

- Accurately and in detail described the way land appeared and was used by the Indians prior to English arrival.
- Described how the land changed as a result of English settlement.
- Provided extensive information on the differences between English and Indian philosophies of land ownership.
- Described the conflicts and consequences of these differences and the effect they had on the Indian population.
- Commented on the lasting effect of governmental policies and on the responsibility of a democracy to restore property rights to those who have been dispossessed.

### Score: 3

- Accurately described the way land appeared and was used by the Indians prior to English arrival.
- Described how the land changed as a result of English settlement.
- Provided information on the differences between English and Indian philosophies of land ownership.
- Described the conflicts and consequences of these differences and the effect they had on the Indian population.
- Commented on the lasting effect of governmental policies and the responsibility of a democracy to restore property rights to those who have been dispossessed.

### Score: 2

- Accurately described the appearance and use of the land prior to English arrival.
- Described how the land changed as a result of English settlement.
- Briefly commented on the differences between English and Indian ideas of land ownership.
- Some attempt to describe conflicts and consequences of these differences.
- Briefly commented on the lasting effect of governmental policies and the responsibility of a democracy to attempt to restore property rights to the dispossessed.

### Score: 1

- Some attempt to accurately describe the appearance and use of the land prior to English arrival.
- Some attempt to describe how the land changed as a result of English settlement.
- Little attempt to describe the conflicts and consequences of these differences.
- Referenced the effect of governmental policies. Made some attempt to address the responsibility of a democracy to restore property rights to the dispossessed.

# Justices Affirm Property Seizures

## 5-4 Ruling Backs Forced Sales for Private Development

By Charles Lane  
Washington Post Staff Writer  
Friday, June 24, 2005; A01

The Supreme Court ruled yesterday that local governments may force property owners to sell out and make way for private economic development when officials decide it would benefit the public, even if the property is not blighted and the new project's success is not guaranteed.

The 5 to 4 ruling provided the strong affirmation that state and local governments had sought for their increasing use of eminent domain for urban revitalization, especially in the Northeast, where many city centers have decayed and the suburban land supply is dwindling.

Opponents, including property-rights activists and advocates for elderly and low-income urban residents, argued that forcibly shifting land from one private owner to another, even with fair compensation, violates the Fifth Amendment to the Constitution, which prohibits the taking of property by government except for "public use."

But Justice John Paul Stevens, writing for the majority, cited cases in which the court has interpreted "public use" to include not only such traditional projects as bridges or highways but also slum clearance and land redistribution. He concluded that a "public purpose" such as creating jobs in a depressed city could also satisfy the Fifth Amendment.

The court should not "second-guess" local governments, Stevens added, noting that "[p]romoting economic development is a traditional and long accepted function of government."

Stevens's opinion provoked a strongly worded dissent from Justice Sandra Day O'Connor, who wrote that the ruling favors the most powerful and influential in society and leaves small property owners little recourse. Now, she wrote, the "specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

D.C. Mayor Anthony A. Williams, who serves as president of the National League of Cities, issued a statement praising the court for upholding "one of the most powerful tools city officials have to rejuvenate their neighborhoods."

In addition to its national repercussions, the court's decision removed a possible obstacle to the District's plans to build a baseball stadium along the Anacostia River waterfront

and to redevelop the Skyland Shopping Center in Southeast -- a project Williams said could generate 300 jobs and \$3.3 million in tax revenue.

A number of property owners in those areas had hoped the court ruling would help them resist the city's exercise of eminent domain. But David A. Fuss, an attorney for several of them, acknowledged that the court's ruling "is going to have a major impact."

The redevelopment program at issue in yesterday's case -- the plan of the Connecticut city of New London to turn 90 acres of waterfront land into office buildings, upscale housing, a marina and other facilities near a \$300 million research center being built by pharmaceuticals giant Pfizer -- was also expected to generate hundreds of jobs and, city officials say, \$680,000 in property tax revenue.

New London, with a population of about 24,000, is reeling from the 1996 closing of the Naval Undersea Warfare Center, which had employed more than 1,500 people.

But owners of 15 homes on 1.54 acres of the proposed site had refused to go. One of them, Susette Kelo, had extensively remodeled her home and wanted to stay for its view of the water. Another, Wilhelmina Dery, was born in her house in 1918 and has lived there her entire life.

The Connecticut Supreme Court upheld the city's plan, so the homeowners, represented by lawyers from the libertarian Institute for Justice, appealed the case to the U.S. Supreme Court.

According to the institute, the New London plan, which the City Council approved in 2000, is typical of "eminent domain abuse," which has spawned more than 10,000 threatened or filed condemnations involving a transfer of property from one private party to another in 41 states between 1998 and 2002.

Scott Bullock, a lawyer for the institute, said that the only recourse for property owners facing condemnation under eminent domain would be to sue in state court based on the property rights provisions of each state's constitution.

New London City Manager Richard M. Brown said he was "very pleased" by the court's decision. He said the city hopes to restart its redevelopment plan, which has lost money so far, partly because of the litigation.

In the disputed neighborhood, known as Fort Trumbull, most residents sold out and their homes were demolished. The site is now a flat expanse of dusty, rock-strewn soil dotted by the few remaining houses. Signs advertising the development site are withered and torn; builders who once considered projects have moved on, deterred by the controversy.

Stevens was joined in the majority by Justices Anthony M. Kennedy, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer.

Kennedy's vote was something of a surprise because he had expressed strong sympathy for property-rights claims in past cases. But in a brief concurring opinion he explained that the New London plan showed no sign of improper favoritism toward any one private developer.

O'Connor was joined in her dissent by Chief Justice William H. Rehnquist and Justices Antonin Scalia and Clarence Thomas. They wrote that the majority had tilted in favor of those with "disproportionate influence and power in the political process, including large corporations and development firms."

And in a separate dissent, Thomas sounded a rare note of agreement with liberal groups such as the NAACP, which had sided with the property owners in the case.

He protested that urban renewal has historically resulted in displacement of minorities, the elderly and the poor.

"Regrettably, the predictable consequence of the Court's decision will be to exacerbate these effects," he wrote.

The case is *Kelo v. City of New London* , No. 04-108.

*Staff writer Kirstin Downey contributed to this report.*

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