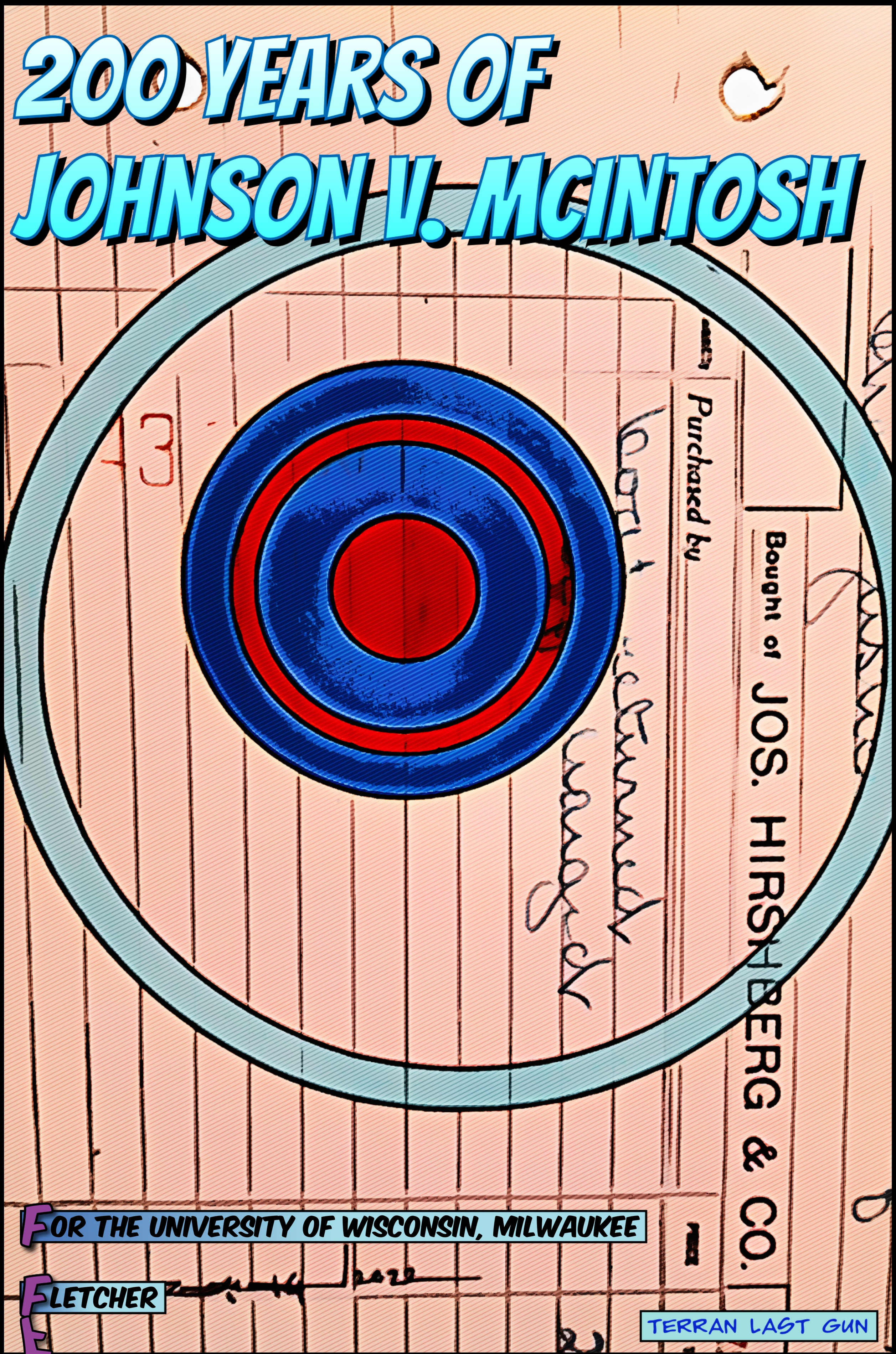
200 YEARS OF JOHNSON V. MCINTOSH



FOR THE UNIVERSITY OF WISCONSIN, MILWAUKEE

FLETCHER

TERRAN LAST GUN

DOCTRINE OF DISCOVERY

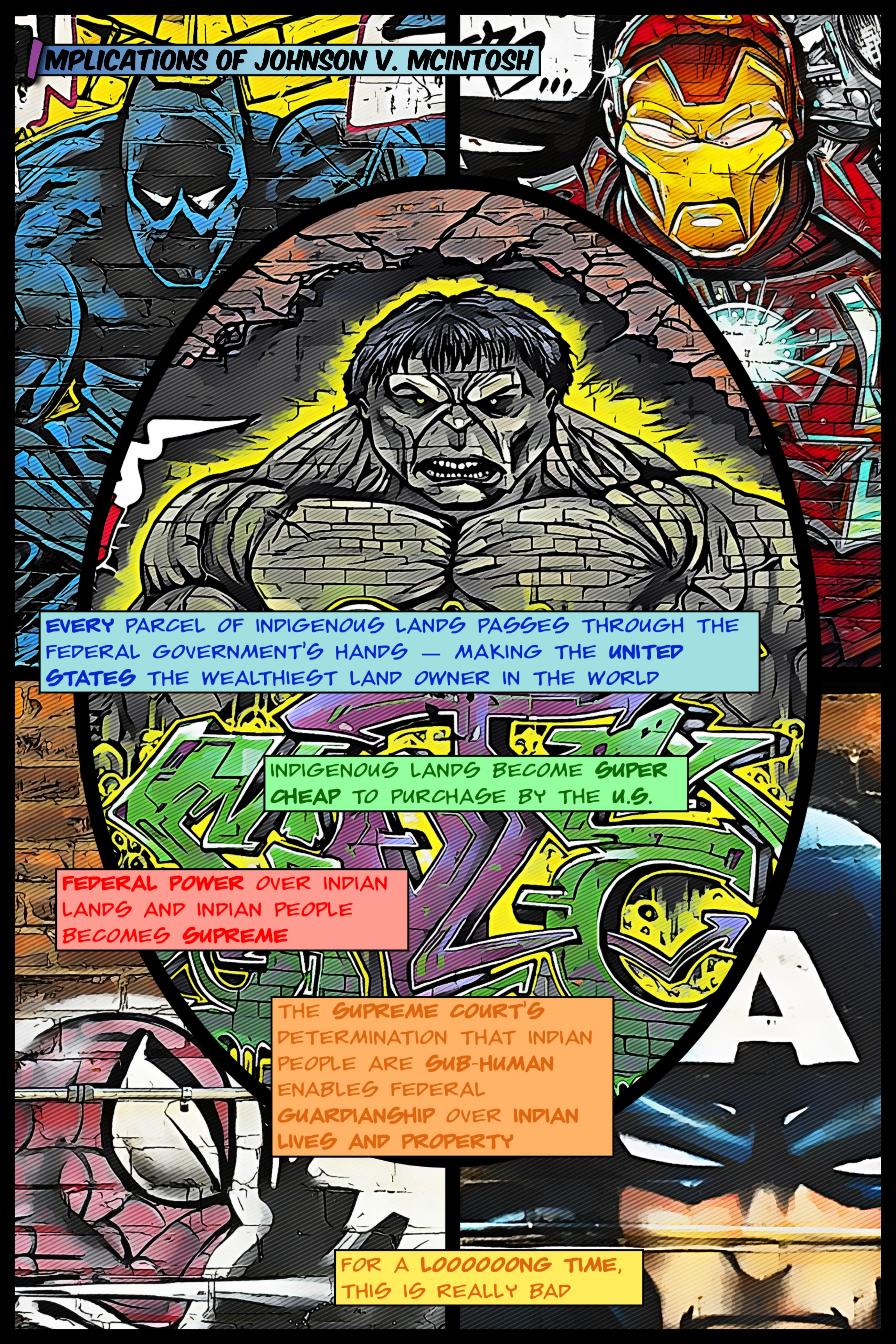
FROM CREEPSHOW 2

FROM PETER PAN

"DISCOVERER" POSSESSES SOVEREIGN TITLE

"INDIANS" POSSESS RIGHT OF OCCUPANCY SUBJECT TO THE "DISCOVERER'S" WILL

FROM AVATAR 2 OR WHATEVER THE HELL'S IT'S CALLED


IMPLICATIONS OF JOHNSON V. MCINTOSH
EVERY PARCEL OF INDIGENOUS LANDS PASSES THROUGH THE FEDERAL GOVERNMENT'S HANDS — MAKING THE UNITED STATES THE WEALTHIEST LAND OWNER IN THE WORLD
INDIGENOUS LANDS BECOME SUPER CHEAP TO PURCHASE BY THE U.S.
FEDERAL POWER OVER INDIAN LANDS AND INDIAN PEOPLE BECOMES SUPREME
THE SUPREME COURT'S DETERMINATION THAT INDIAN PEOPLE ARE SUB-HUMAN ENABLES FEDERAL GUARDIANSHIP OVER INDIAN LIVES AND PROPERTY
FOR A LOOOOOONG TIME, THIS IS REALLY BAD

LEGACY OF JOHNSON V. MCINTOSH

BAD STUFF, YES. . . .

LAND DISPOSSESSION

BOARDING SCHOOLS

CHILD REMOVAL

ALLOTMENT AND TERMINATION

BUREAUCRATIC PATERNALISM

OSAGE REIGN OF TERROR, WOUNDED KNEE MASSACRE, SAND CREEK MASSACRE, BURT LAKE BURNOUT, AND SO ON

RELIGIOUS AND CULTURAL PERSECUTION

BUT ALSO GOOD STUFF?

INDIAN CHILD WELFARE ACT

INDIAN GAMING REGULATORY ACT

SELF-DETERMINATION LAWS (638, NAHASDA, TRIBAL COLLEGES, VAWA TRIBAL JURISDICTIONAL LAWS, ETC.)

TRIBAL IMMUNITIES FROM SUIT, TAX, REGULATION, ETC.

INHERENT TRIBAL SOVEREIGN POWERS

ENFORCEABLE TREATY RIGHTS

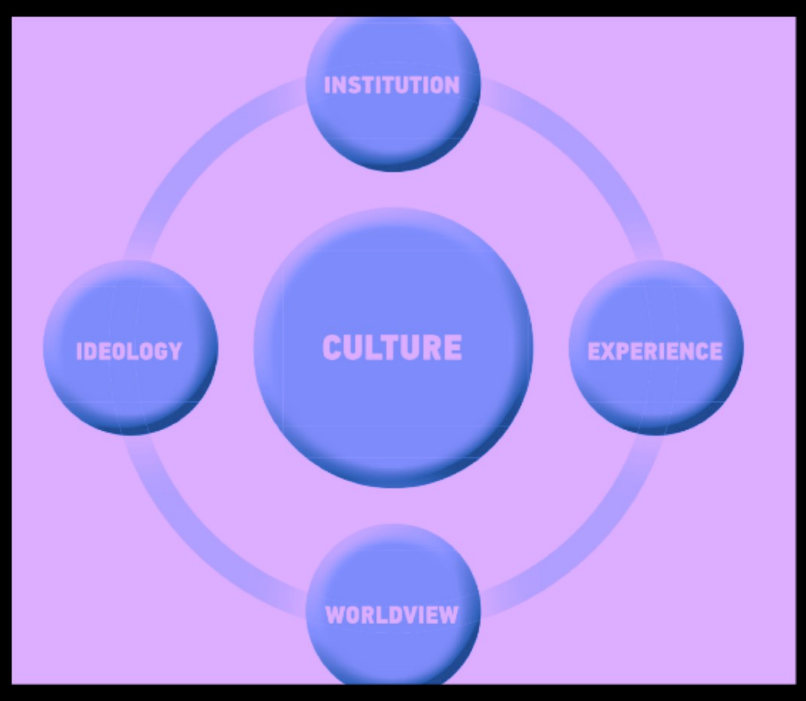
PROPERTY RIGHTS FOR TRIBES AND INDIAN PEOPLE*

* WATCHOO TALKIN' ABOUT, WILLIS?

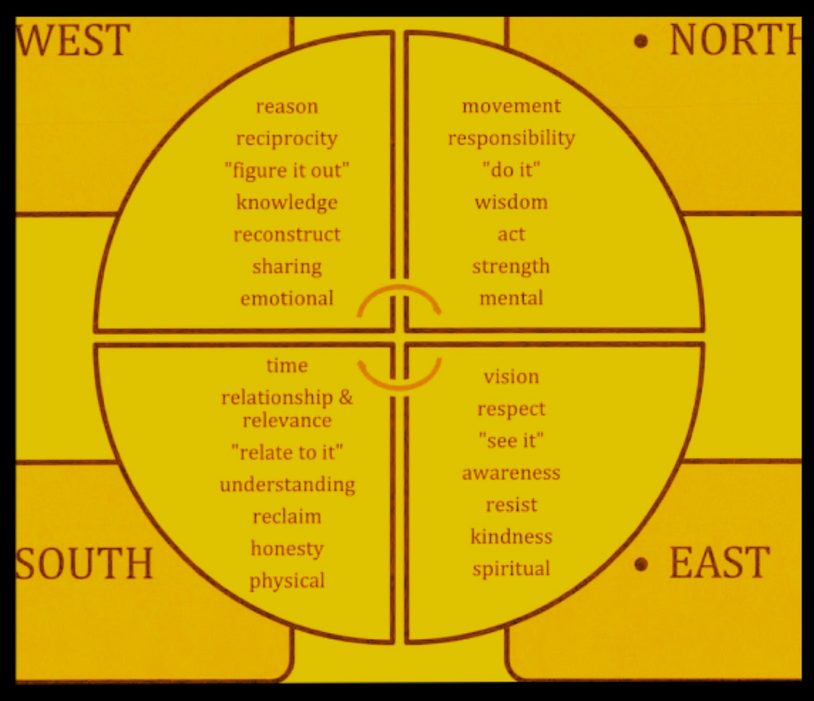
THE FUTURE OF THE DOCTRINE OF DISCOVERY?
IS THERE VEHICLE FOR THE SUPREME COURT TO OVERRULE JOHNSON V. MCINTOSH?
NOPE.*
DOES THE POPE'S REPUDIATION MEAN ANYTHING?
NOPE.**
* AS A PRACTICAL MATTER, IT DOESN'T MATTER ANYWAY SINCE THE U.S. PAID FOR INDIAN LANDS ANYWAY.
** IF IT MATTERED, WE'D GET THE LAND BACK, RIGHT?

SO WHAT'S THE DEAL, **LEBOWSKI**? YOU JUST A **NIHILIST** WHAT DOESN'T BELIEVE IN ANYTHING?

NOT AT ALL — INSIDE **JOHNSON V. MCINTOSH** ARE THE SEEDS OF TRIBAL SOVEREIGNTY, INDIGENOUS POLITICAL THEORY, AND THE ULTIMATE REPLACEMENT OF THE DOMINANT CULTURE'S DEATH SPIRAL WITH A REAL FUTURE



MARK FREELAND

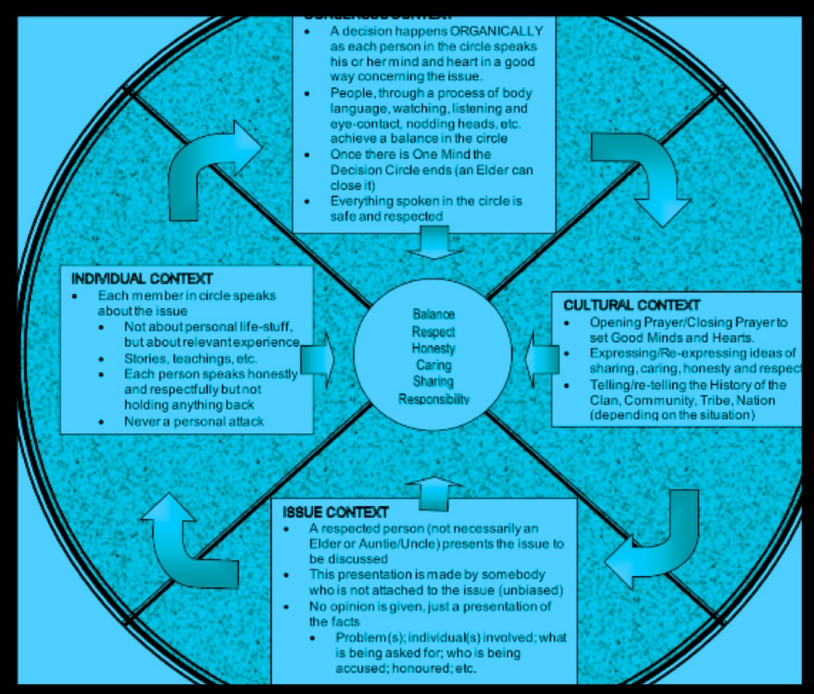


NICOLE BELL

ZOOEY WOOD-SALOMON

OSHKEBEWIS

D'ARCY RHEAULT



JOHNSON V. MCINTOSH

WHAT YOU NEED TO KNOW:

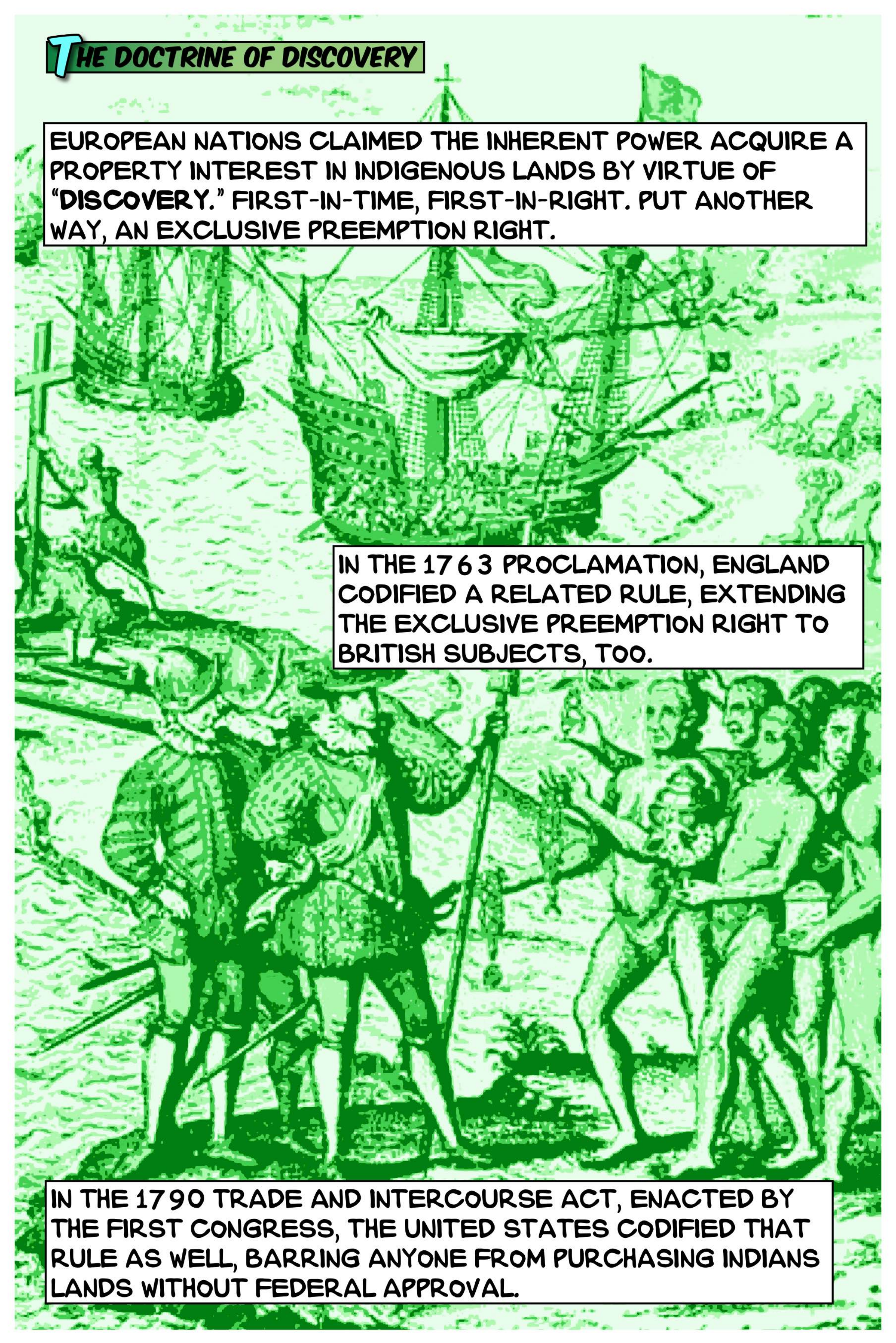
ABORIGINAL TITLE, OR INDIAN TITLE, OR ORIGINAL INDIAN TITLE IS THE TYPE OF PROPERTY INTEREST INDIAN PEOPLE AND INDIAN NATIONS OWNED BEFORE ANY LAND TRANSACTION WITH A EUROPEAN NATION OR THE UNITED STATES.

INDIAN TITLE [MY PREFERRED NAME] COULD ONLY BE DIVESTED BY A NATIONAL SOVEREIGN.

INDIAN TITLE COULD ONLY BE DIVESTED BY PURCHASE OR CONQUEST.

INDIAN TITLE IS OFTEN CALLED THE RIGHT OF OCCUPANCY.

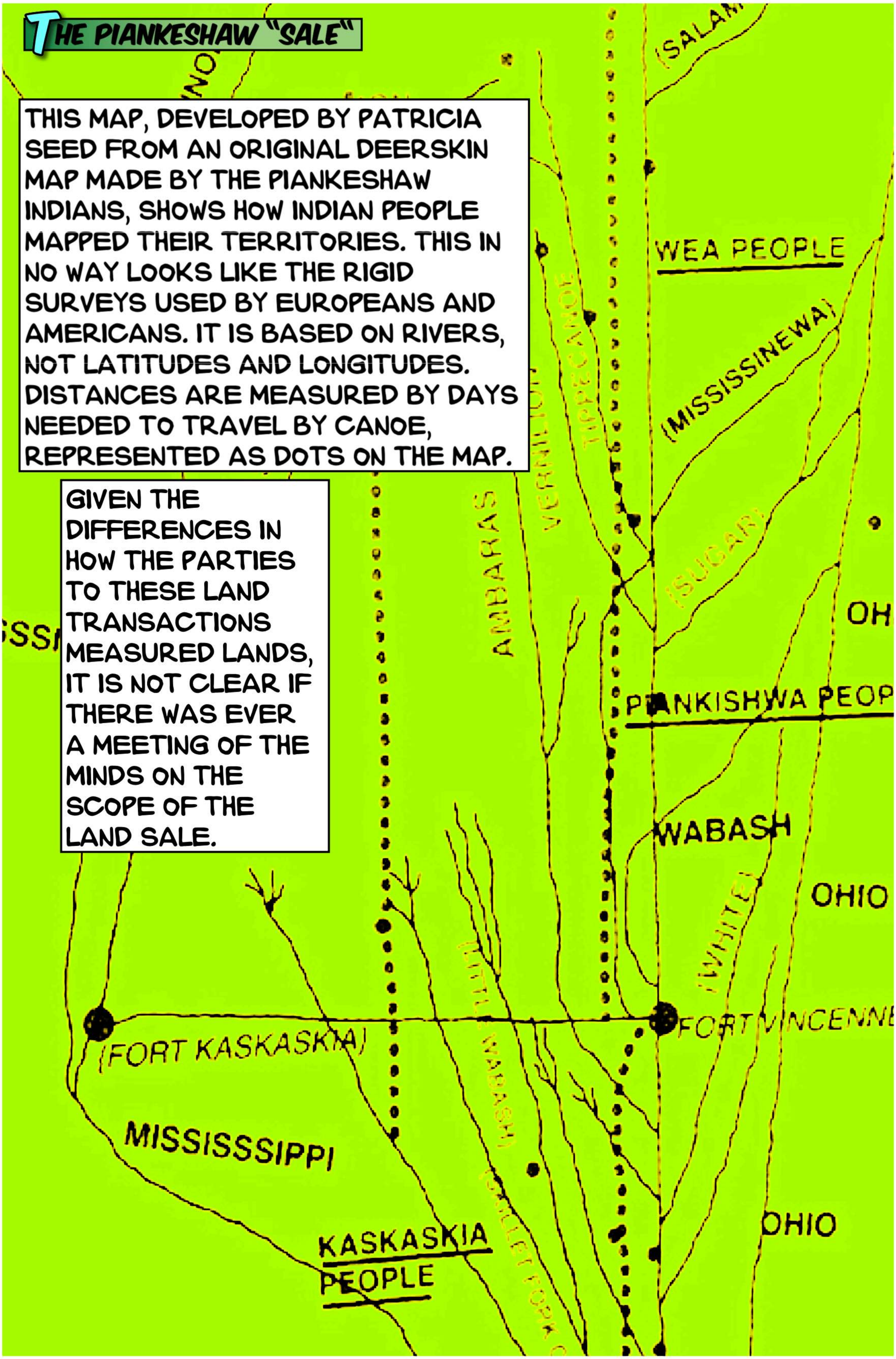
INDIAN TITLE IS FEE SIMPLE EXCEPT THE POWER TO SELL LAND TO ANY EUROPEAN OR AMERICAN WITHOUT NATIONAL OR FEDERAL CONSENT. INDIANS TO SELL TO EACH OTHER. AND INDIANS COULD DO ANYTHING THEY WANTED WITH THE LAND.


THE DOCTRINE OF DISCOVERY
EUROPEAN NATIONS CLAIMED THE INHERENT POWER ACQUIRE A PROPERTY INTEREST IN INDIGENOUS LANDS BY VIRTUE OF "DISCOVERY." FIRST-IN-TIME, FIRST-IN-RIGHT. PUT ANOTHER WAY, AN EXCLUSIVE PREEMPTION RIGHT.
IN THE 1763 PROCLAMATION, ENGLAND CODIFIED A RELATED RULE, EXTENDING THE EXCLUSIVE PREEMPTION RIGHT TO BRITISH SUBJECTS, TOO.
IN THE 1790 TRADE AND INTERCOURSE ACT, ENACTED BY THE FIRST CONGRESS, THE UNITED STATES CODIFIED THAT RULE AS WELL, BARRING ANYONE FROM PURCHASING INDIANS LANDS WITHOUT FEDERAL APPROVAL.

THE PIANKESHAW "SALE"

THIS MAP, DEVELOPED BY PATRICIA SEED FROM AN ORIGINAL DEERSKIN MAP MADE BY THE PIANKESHAW INDIANS, SHOWS HOW INDIAN PEOPLE MAPPED THEIR TERRITORIES. THIS IN NO WAY LOOKS LIKE THE RIGID SURVEYS USED BY EUROPEANS AND AMERICANS. IT IS BASED ON RIVERS, NOT LATITUDES AND LONGITUDES. DISTANCES ARE MEASURED BY DAYS NEEDED TO TRAVEL BY CANOE, REPRESENTED AS DOTS ON THE MAP.

GIVEN THE DIFFERENCES IN HOW THE PARTIES TO THESE LAND TRANSACTIONS MEASURED LANDS, IT IS NOT CLEAR IF THERE WAS EVER A MEETING OF THE MINDS ON THE SCOPE OF THE LAND SALE.



THE MCINTOSH LAND PATENT

Rec.d and sent, 27th July 1818, to Land Office Kaskaskia

Monroe

JAMES ~~MCINTOSH~~, President of the United States of America,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, That William McIntosh of Vincennes,

having deposited in the General Land Office, a Certificate of the Register of the Land Office at Kaskaskia whereby it appears that full Payment has been made for Section No. [illegible] [illegible] of the Lands directed to be sold at Kaskaskia by the Acts of Congress, relative to the disposal of the Public Lands in the ILLINOIS TERRITORY,

THE JOHNSON PLAINTIFFS CLAIMED A RIGHT TO LANDS IN INDIANA AND ILLINOIS. THEIR INTEREST DERIVED FROM A SALE BY THE PIANKESHAW INDIANS, A NOMINAL PART OF THE MIAMI CONFEDERACY.

There is granted, by the United States, in pursuance of the Acts of Congress in that case provided, unto the said William McIntosh the ——— Section of Land above described: To have and to hold the said ——— Section of Land, with the Appurtenances, unto the said William McIntosh his Heirs and Assigns forever.

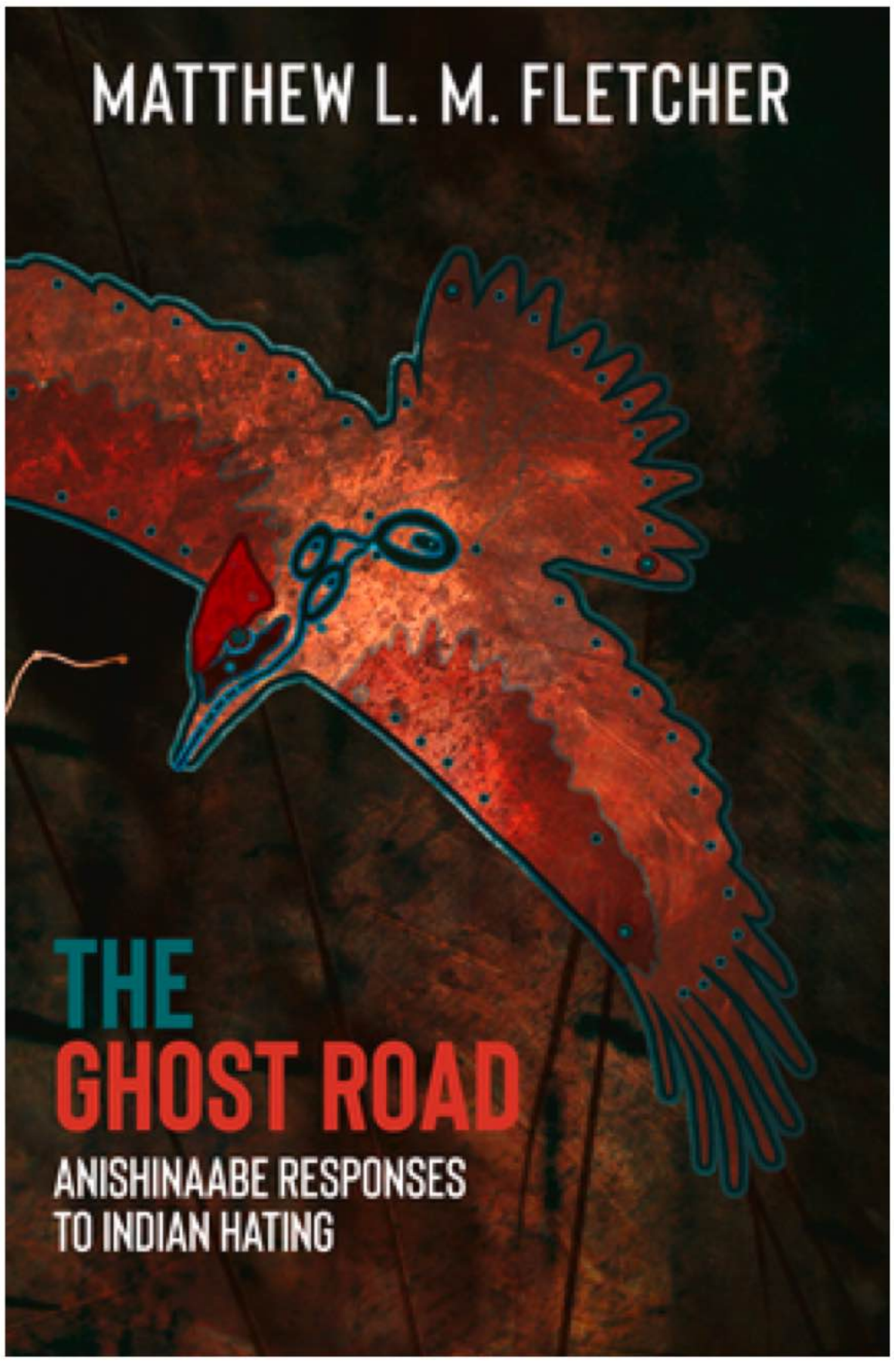
THE MCINTOSH DEFENDANTS CLAIMED LANDS IN INDIANA, POSSIBLY IN CONFLICT WITH THE PLAINTIFFS' CLAIMS, BUT PERHAPS NOT. THE DEFENDANTS CLAIMED TO HAVE ACQUIRED THE LAND FROM THE U.S., WHO GOT IT FROM A GROUP OF INDIANS FROM THE ILLINOIS CONFEDERACY.

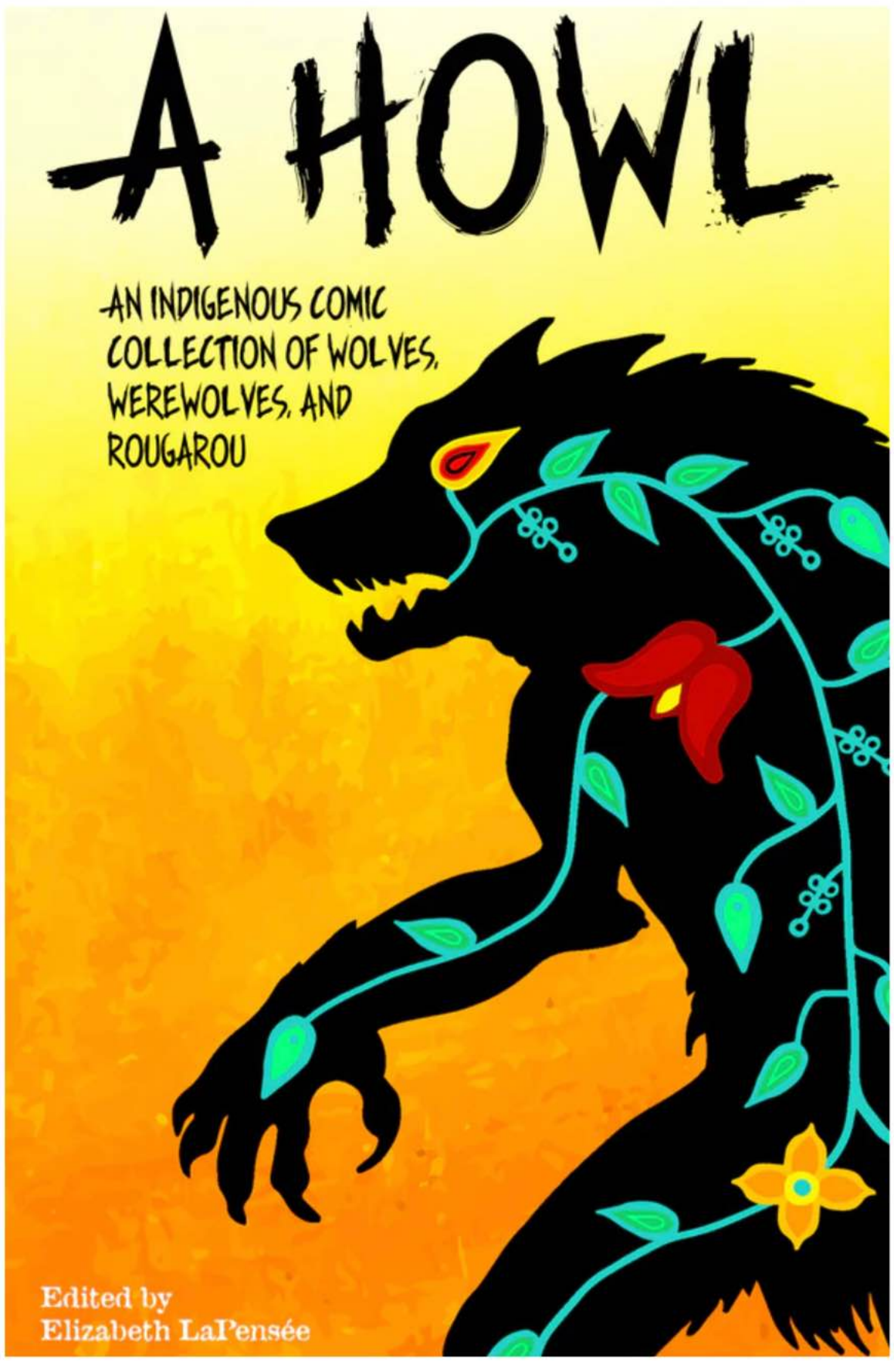
Given under my Hand at the City of Washington, the twenty-sixth day of July in the year of our Lord one thousand eight hundred and eighteen and of the Independence of the United States of America the forty third.

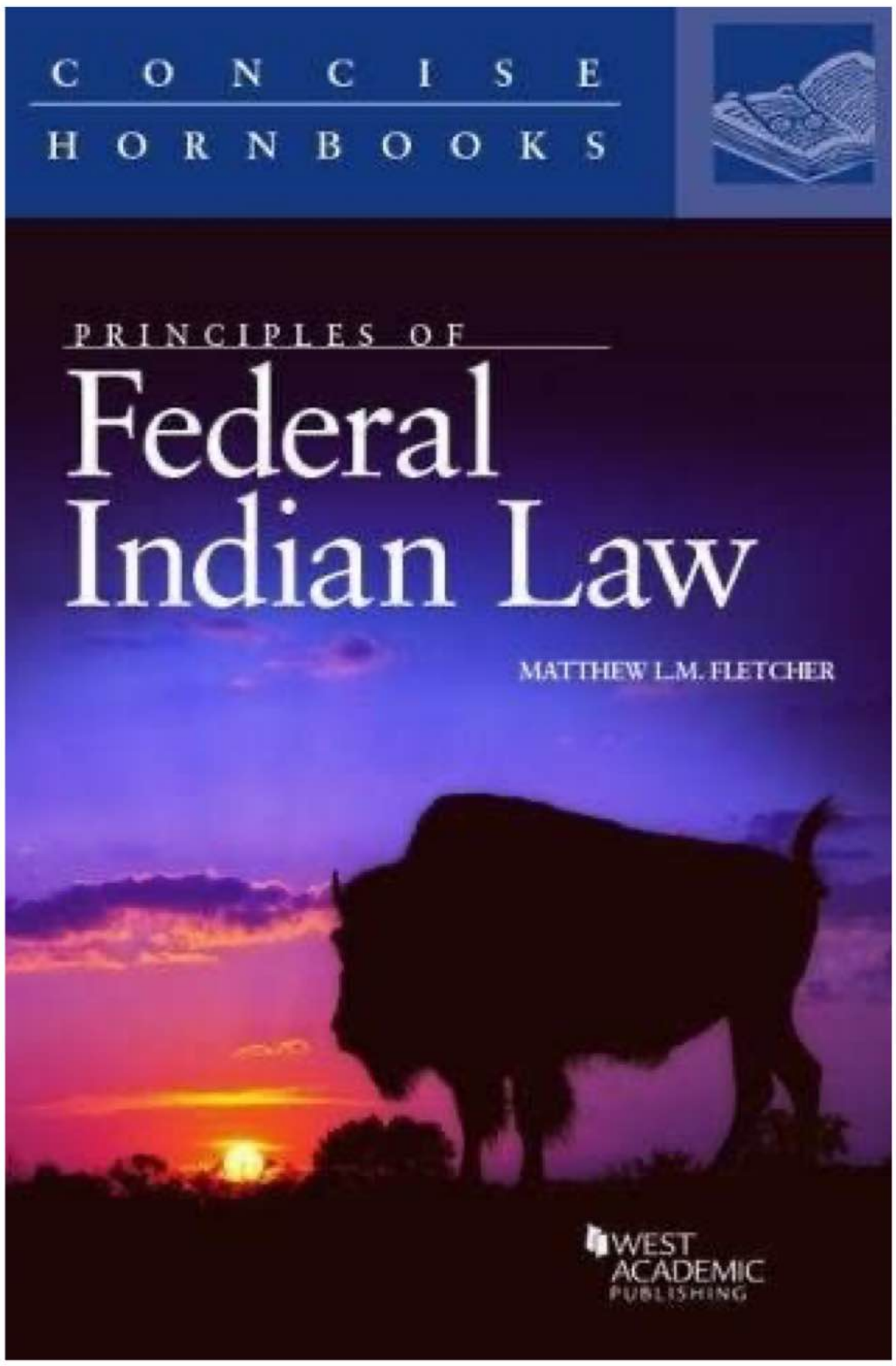
L.S.

BY THE PRESIDENT, (Signed) James Monroe

(Signed) Joseph Meigs Commissioner of the General Land Office.


MATTHEW L. M. FLETCHER
THE
GHOST ROAD
ANISHINAABE RESPONSES
TO INDIAN HATING


A HOWL
AN INDIGENOUS COMIC
COLLECTION OF WOLVES,
WEREWOLVES, AND
ROUGAROU
Edited by
Elizabeth LaPensée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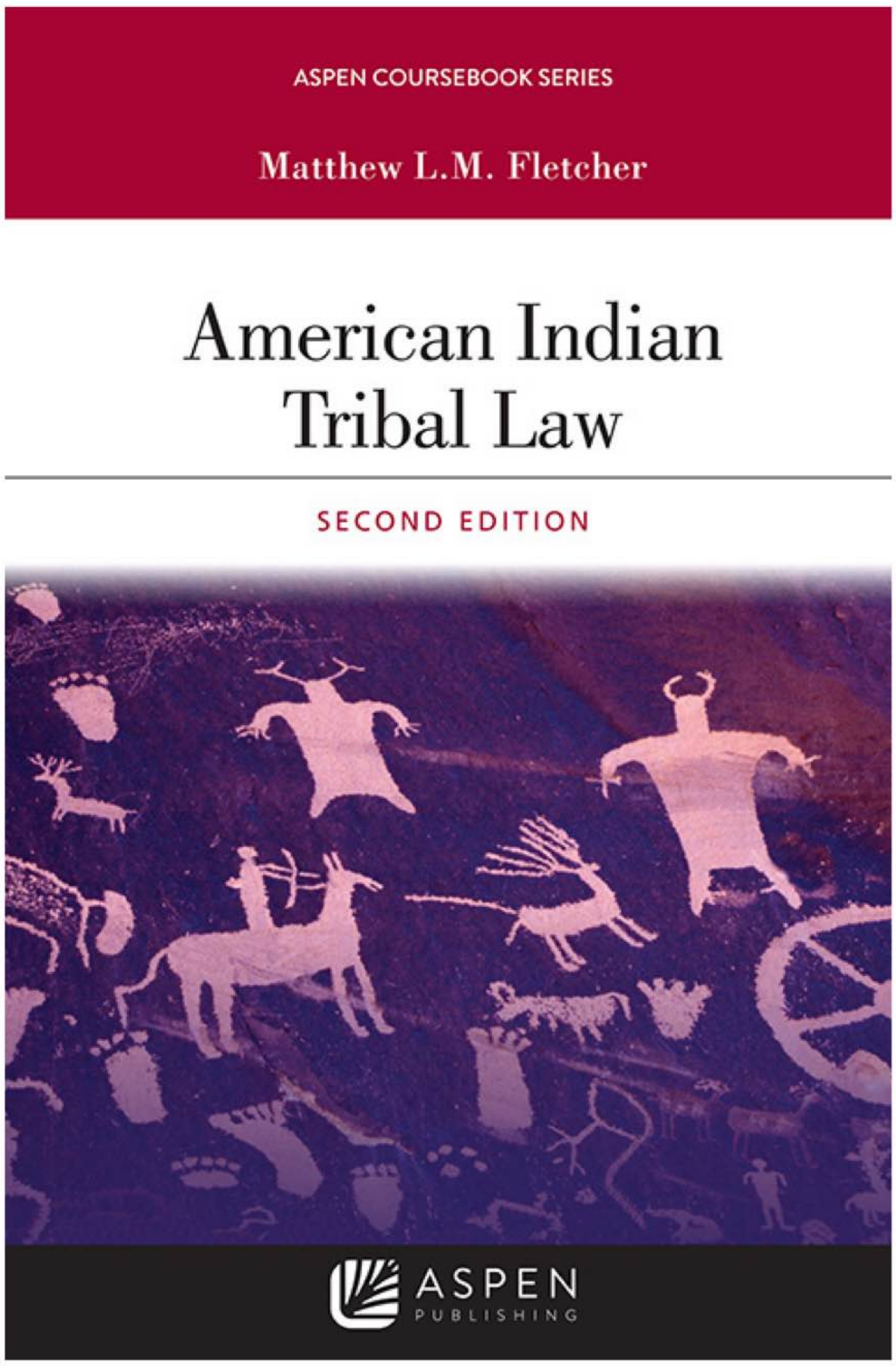
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