

WHEN NATIONS MAKE TREATIES

a slide-audio play

approximate length: 30 min.

The content of this slide-audio play is fictional. Historical photographs and quotations have been used to reinforce the dramatic story you are about to experience. Any resemblance to actual persons, living or dead, is purely coincidental.

MAIN CHARACTERS:

SONYA YELLOW FEATHER, a young tribal woman

TECUMSEH, great Shawnee chief

RED CLOUD, great Sioux chief

CHIEF JOSEPH, great Nez Perce chief

CHIEF JUSTICE JOHN MARSHALL, U.S. Supreme Court Justice

MINOR CHARACTERS:

STAGE MANAGER

HERBERT W. BRECK, a fictitious BIA agent

STANDING BEAR, Ponca chief

ANONYMOUS VOICES

THE SETTING:

A young tribal woman, SONYA YELLOW FEATHER, has become concerned about the confusion people are having about the

treaties. When the slide-audio play begins, she is seen among the stacks at a large library nearing a state of frustration and exhaustion.....she then falls asleep. Once asleep, she begins to dream about the subject of her research and encounters a variety of historical figures who willingly respond to her questions. Conversations highlight the main aspect of the treaties and the development of U.S. policies which have distorted their meaning....

ACT ONE

(MUSIC begins)

VOICES (under MUSIC):

My tribe has a treaty. What does it mean?

Does changing the treaty change the tribe?

Was there a tribe before the treaty?

Why can the United States government interpret the treaties any way it wants?

Why can't the tribes do the same?

Can Congress ignore the treaty without the consent of the tribe?

If we are not a country...and we are not a state...

and we are not a territory....what are we?

Why were the treaties signed in the first place?

Why do our leaders keep talking about treaties?

Should we keep our treaties?

VOICES:

Can the treaties be changed

VOICES fade. MUSIC continues.

SONYA YELLOW FEATHER: (slams book on table)

Whew...boy...am I confused? Treaties....Supreme Court
decisions...plenary power of Congress....

I wish someone could explain to me what Indian treaties
are all about.

STAGE MANAGER: (under MUSIC)

Sonya Yellow Feather doesn't know it yet....but with the
magic of fiction and dreams, she is about to be transported
on a journey through history.

She hasn't had much luck with the books in the library...
her mind is alive with visions of tribes and treaties...
she's tired.....

Sonya Yellow Feather is one tribal member who has become
concerned about the treaties....She's about to revisit
Indian treaties in a very unusual way.....(PAUSE)

Let's join her in the library and see how she's coming
along.

SONYA:

I'm sleepy,...I've been in this library forever,...
there's so many books,...so many words.....
so many words.....

(MUSIC fades off)

VOICES (fade in gradually):

Those treaties were solemn agreements.

I agree...and they still are!

I'm glad you agree...but that's not what happened
to my people.

We must civilize these heathen savages....make
them like white men!

The United States government lied to us when they
signed the treaties.

The U.S. government did not lie!

(PAUSE)

SONYA: (voice low)

Oh...they are talking about treaties...I wonder if they can
hear me?

(stuttering)

ahhhhhem...I'd....I'd....I'd like to ask you some
questions.....

STAGE MANAGER: (very softly)

Sonya Yellow Feather has entered a dream world....(PAUSE)

Everyone knows that Indian tribes have been signing
treaties for several centuries....

Before the United States became a country, more than
400 treaties were negotiated with the countries of
Spain, France and England....An early treaty with the

STAGE MANAGER continued:

United States was signed in 1778 by the Delaware Nation....

During treaty negotiations, the possibility of statehood for that tribe was seriously considered....BUT after 100 years of treaty-making with the U.S. government, the tribes remained completely separate from the American political system.

Treaties have long protected tribal rights to self government.

And yet, the United States Congress has frequently passed laws which directly affect tribal populations...even though the tribes were not given any say in such matters. (PAUSE)

When nations make treaties....they recognize each others respective sovereignty.

(PAUSE)

Let's see what's happening to our young researcher in her dream. She seems to be having some difficulty.

SONYA:

I'd...I'd....I'd like to ask you some questions

(voice gets louder)....about treaties.

Excuse me....I have some questions.

TECUMSEH:

But Mr. Justice. ...You're wrong!

JUSTICE MARSHALL:

I have what I need to prove my point right here....

SONYA:

Excuse me for interrupting. But please...where....

SONYA continued:

Where am I? Who....who are you?

TECUMSEH: (laughing) Ha.. Ha..at last a fresh face...

we have an interruption to our long-winded debate!

VOICES: (whispering)

But who is she?

What is she doing here?

Don't pay any attention to her!

TECUMSEH:

Don't mind them...Tell me, daughter....from what time
do you come?

JUSTICE MARSHALL:

My dear Tecumseh....I'd like to make my point!

I have it here in my opinion.....

TECUMSEH:

Yes, Mr. Justice...now would be a good time. (PAUSE)

Listen closely to this young lady....your questions
will soon be answered.

JUSTICE MARSHALL:

It may well be doubted whether those tribes which reside
within the boundaries of the United States can...with strict
accuracy...be denominated foreign nations...They more
correctly, perhaps, be donominated DOMESTIC DEPENDENT NATIONS.

--the case of Cherokee v. the State of Georgia in 1831

SONYA:

But Justice Marshall,...did the signing of the treaties make the tribes dependent on the United States?

RED CLOUD:

You...Justice,...That's ridiculous!
we've never been dependent upon anybody but the
Great Spirit and ourselves!

TECUMSEH:

Red Cloud is right, Justice Marshall,...your notion of domestic dependent nations might have been well-intended, but it hasn't helped tribal people...and besides..it wasn't true....

I remember when I was negotiating with Governor Harrison in 1810...we had no such confused ideas about the longstanding existence of Indian nations....we were only dependent on the Great Sprit....not on other men!

(PAUSE)

I'd like to repeat what I said to Governor Harrison when he tried to swindle the Shawnees out of our lands....

"Since my residence at Tippicanoe...we have endeavored to level all distinctions...to destroy village chiefs...by whom all mischiefs are done. It is they who sell the land to the Americans.

Brother, this land that was sold, and the goods that were given for it, was done only by a few....If you continue to purchase them...it will make war between the different

TECUMSEH continued:

tribes...and at last I do not know what will be the consequences among the white people.

Brother, I wish you would take pity on the red people as I have requested. If you do not give up the land and do cross the boundary of our present settlement.... it will be very hard and produce great trouble between us. The only way to stop this evil is for the red man to unite in claiming a common and equal right in the land....as it was at first....and should be for now...for it was never divided.... but belongs to all.

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?

Did not the Great Spirit make them all for the use of his children?

ALL: (APPLAUSE and outbursts)

TECUMSEH:

Now wait a minute....Miss Yellow Feather had a question I believe.....

But Justice Marshall's words...domestic dependent nations have confused both tribal and U.S. leaders for almost 150 years. Maybe you had better explain to Sonya Yellow Feather what you meant, Mr. Justice.

JUSTICE MARSHALL:

Take the Cherokee question, for example. The Cherokee Nation was certainly prepared to function as an independent sovereign. The problem was....the state of Georgia was demanding control over the Cherokees. I believe the state had no such right because the Cherokees were independent....For political reasons.... I developed the idea of "domestic dependent" sovereignty merely so the Supreme Court could hear the case....

(PAUSE)

I thought the idea of domestic dependent status would help convince the Congress to protect the Cherokee Nation's rights in Georgia. I was on the Indians' side. I can't help it if my words were later misused and misunderstood.

SONYA:

Justice Marshall....it's not yet clear to me.

Why did the tribes sign treaties in the first place?

JUSTICE MARSHALL:

Many of the earlier treaties were negotiated primarily to protect the tribes from encroachments by white settlers.and to prevent the tribes from making treaties with other nations....You must remember, at this time the United States was still a relatively weak, forming nation. The treaties, by reducing hostilities with the Indians...actually strengthened the U.S. position in dealing with other countries....

JUSTICE MARSHALL continued:

By allowing the tribe's case to be heard in the Supreme Court, the Court could re-inforce the importance of treaty commitments made by the United States and strengthen treaty-making powers....(PAUSE)

Afterall, the treaties are still binding...

the United States Constitution clearly stipulates:

"Treaties are the Supreme law of the land."

SONYA:

But what happened after that?

TECUMSEH:

With their removal to the west of the Mississippi, tribes from the Eastern United States hoped to gain peace and lasting protection from the whites.....their traditional native lands were soon occupied by white settlers.....

(PAUSE)

The tribal way of life was severely damaged by these removals. Driven to barren and often unproductive soils....the tribes gradually began to depend on the United States government for more than protection....

(PAUSE)

Later treaties reflected the changing needs of devastated tribes, but many tribal leaders...farther to the Westwere slow

TECUMSEH continued:

to realize the importance of these treaties and the language included in them.....

SONYA:

I REALLY want to understand!

Someone please tell me....why did the tribes negotiate treaties?

JUSTICE MARSHALL:

Chief Joseph....you saw a lot in your time..

CHIEF JOSEPH:

I will answer your question...Treaties were negotiated by the tribes for a lot of reasons. In early treaties, many tribes tried to establish lasting PEACE and FRIENDSHIP with the white man's government....They hoped to avoid bloodshed....

(PAUSE)

Later treaties emphasized clearly defined boundaries.... Tribes gave up land to the United States in order to preserve land for themselves....Millions of acres were ceded to the United States government in exchange for specific guarantees.....

Some treaties provided for the regulation of trade... preservation of hunting, fishing and other rights....

(PAUSE)

As tribal ways were destroyed by reservation restrictions and abuses....many tribes made long-term

CHIEF JOSEPH continued:

arrangements for compensation and care of tribal people in the treaties....

Many, such as my father, did not trust the white man...

In discussions with Governor Isaac Stevens in 1855, he refused to give up our homeland and move to Idaho...

It is probably true that tribes who obtained treaties are better off than those who didn't...(PAUSE)

....But my father's words still ring in my ears:

"I will not sign your paper," he told Governor Stevens.

"you go where you please...so do I. You are not a child...

I am not child, No one can think for me. I have no other home than this....I will not give it up to any man.

My people would have no home. Take away your paper.

I will not touch it with my hand!"

(PAUSE)

These are the words of my father.

JUSTICE MARSHALL:

But Joseph, your people did sign a treaty.

CHIEF JOSEPH:

What happened afterward is a painful story....thirty years later the soldiers came to enforce the treaty....

JUSTICE MARSHALL:

We know of the great tragedy experienced by your people...

But tell us more about the treaty.

CHIEF JOSEPH:

I believe.....that the old treaty was never correctly reported. (PAUSE)

If we ever owned the land...we own it still. For we never sold it. In treaty council, the commissioners claimed that our country had been sold to the government. Suppose the white man should come to me and say:

"Joseph, I like your horses and I want to buy them."

I say to him, "No. My horses suit me. I will not sell them."

Then he goes to my neighbor and says...."Joseph has some good horses. I want to buy them. But he refuses to sell."

My neighbor answers, "Pay me the money and I will sell you Joseph's horses."

The white man returns and says, "Joseph, I bought your horses and you must let me have them."

If we sold our lands to the government....this is the way they bought it.

INTERMISSION

INTERMISSSION

INTERMISSION

INTERMISSION

ACT TWO

SONYA: Justice Marshall, you've heard the story....

You said the Supreme Court wanted to protect the tribes...

Why did the Supreme Court allow Indian commissioners to
get away with these things?

Why didn't the Supreme Court protect the tribes who were
cheated like Chief Joseph's band was?

JUSTICE MARSCHALL:

Lawyers and courts were not always available to protect the
Indians.....Communications were not efficient in those days.
Many tribes finally sent representatives to Washington D.C.
to express their grieveances....

when cases were heard, the Supreme Court usually held that
the treaties should be interpreted in the way the original
signers understood them....

TECUMSEH:

But Mr. Justice....you didn't tell Sonya why the
courts couldn't protect the tribes.....

JUSTICE MARSHALL (in a fatherly tone):

The court is one of three branches of the U.S. government...
It's role has been to interpret the laws made by Congress
in terms of the U.S. Constitution...I must admit the U.S.
courts could not directly protect the tribes....
and in truth, the court was obliged to protect the
United States. (PAUSE)

Treaty matters should never have been heard by a United States court.

JUSTICE MARSHALL continued:

Such matters should have been heard by an INTERNATIONAL COURT....In those days, there was no international court that could hear such cases....(PAUSE)

Remember...Indian peoples made up independent nations. They were our equals!

SONYA:

But Mr. Justice, aren't Indian people protected by the U.S. Constitution?

JUSTICE MARSHALL:

For a long time, Indian people were NOT protected by our Constitution. I hope you understand that. They were not citizens of the United States. Please, despite what I wrote, those people were citizens of their own nations.

(PAUSE)

The United States wanted and needed more land...We couldn't get it solely through wars and treaties.... So we decided to make your people citizens of the United States. Our laws provided that INDIVIDUAL land-owning Indians could become citizens...(PAUSE)

STANDING BEAR: (impatiently)

I am Standing Bear!

The Ponca people made a treaty with the Great Father in 1865, but twenty years later, it was ignored. Soldiers came to drive us from our native soils....I told the Omaha court in 1876.....

"

STANDING BEAR continued;

"You have driven me from the East to this place.

And I have been here a thousand years or more....

I have not wished to give even a part of it to the
Great Father. Though he were to give me a million dollars,
I would not give him this land.

(PAUSE)

When people slaughter cattle, they drive them along
until they get them to a corral....and then slaughter them.
So it was with us. My children have been exterminated.
My brother has been killed!

(PAUSE)

Look at my hand...that hand is not the color of your hand.
But if I pierce it I will feel pain.....the blood that will
flow from mine will be the same color as yours....I am a man....
The Great Spirit has made us both!"

JUSTICE MARSHALL: (pompous summation)

In Standing Bear's case, the government lawyers argued
that Indians are not persons in the meaning of the
Constitution. Standing Bear spoke on his own behalf....
and even the soldiers were moved by his plea. (PAUSE)

Judge Dundy if the federal court in Omaha ruled that an
Indian was a person and is entitled to the same
Constitutional protection as the white man....

The 1876 case was a landmark in the history of U.S. law.
Standing Bear and his band were freed and allowed to return
to bury their dead in tribal traditions on their own lands.

TECUMSEH: (laughing)

Ha. Ha. It only took a hundred years to discover that
our people were human!

We had decided that white people were our brothers
a long time before...

Your explanation of your law is interesting...BUT....
people have always been people!

The courts didn't need to tell INDIANS that!

ALL: (laughter)

ACT THREE

SONYA:

Does that mean that Indians were made citizens in 1876?

TECUMSEH: No. The U.S. tried to make our people citizens of its
country many times before 1876...but Indian loyalty has
always been to the tribe first.

SONYA:

I think I'm beginning to understand...There seems to be
a bit of contradiction in history....Let's see now...

In 1778, the Delawares were almost made a state, but the tribes
preferred to remain foreign nations.

Eastern tribes were removed to a new country called Oklahoma...

In 1849, the Department of the Interior went after tribal
lands.

The Congress decided to stop making treaties in 1871.

SONYA continued:

Fifteen years later, Congress decided it could divide the tribal lands and give it to individual Indians....sell tribal lands and pay for health, education and assistance programs with the money....

And in 1876, Standing Bear was ruled to be a person.

HERBERT W. BRECK:

I am Herbert W. Breck....In 1873, I was superintendent of the Tanglefoot Creek Agency.

Miss Yellow Feather, you are aware of course that the United States has acted as a guardian over its wards.

I mean....Indian people just weren't ready to deal with the white man's more civilized ways.

The tribes were weak....the United States was more powerful and therefore had the right to do whatever it thought was best for the Indians.

Of course, we always felt it would be better if the tribes just disappeared into the American melting pot....we sincerely believed it would be best if the Indian could learn the ways of our higher civilization and religion.

SONYA:

You mean.....then the Bureau of Indian Affairs was really trying to help the Indians afterall?

HERBERT W. BRECK:

That's right my dear.

HERBERT W. BRECK continued:

Savages like your ancestors were really very superstitious. Many Indians, of course, refuse to accept that our way is really superior to theirs...

Some Indian statements, even today, go as far as to claim the presence of the whites and other non-Indians is only a temporary event and eventually Indians will reclaim the entire continent!

Few Indians seriously expect this to happen, but the idea is a recurring one. Its power as a mystical dream, a deep-seated longing, a belief that this should happen is great.

(PAUSE)

The theme is reminiscent of the Ghost Dance and the religious movement that swept through the West in the 1880'sa Pieute named Wavoka foresaw the end of the world as it was and a new world in which everything would be made right. The religion of the Ghost Dance was a contributing factor to the fear and suspicion that led to the last armed battle of the Plains Wars at Wounded Knee, South Dakota in 1890....The dance, the vision and the battle were doomed to failure...but the power, the longing....exists today and helps supply the fuel for activist Indians.....

RED CLOUD: (angrily)

You...agent. Enough. Enough....I cannot stand by and listen to your lies any longer. You are trying to confuse

RED CLOUD continued:

Sonya Yellow Feather. This is how the United States government has always tried to confuse our people..... and is still doing today....(PAUSE)

You LIE about the Ghost Dance and the so-called battle of Wounded Knee. The slaughter of unarmed women and children can hardly be called a battle!

My people danced the Ghost Dance and prayed to the Great Spirit. You can't understand what this meant.

The white soldiers were afraid of what we did and they

killed Sitting Bull because his band would not give up the dance....

Your lies are like so many of the Great Father's representatives who have ignored the treaties....

In 1870, I personally went to Washington D.C. to see the Great Father.....

" When I came to Washington, the Great Father explained to me what a treaty was...and showed me that the interpreters had deceived me.

All I wanted was what was just and right. I wish to know why commissioners are sent out who do nothing but rob us and get the riches of the world away from us..."

(PAUSE)

BIA agents never do say what they mean.....

"They made us more promises than I can remember...

But they kept but one...

They promised to take our land....and they took it."

TECUMSEH:

Sonya Yellow Feather. You must understand.

We were separate from the jurisdiction of the United States.

When the treaties were made, we were foreign nations....

In the Northwest Ordinance of 1787, one hundred years before the Congress decided it had power over Indians, the Congress said....and I quote the 1787 Ordinance....

"The utmost faith shall always be observed towards the Indians. Their lands shall never be invaded or disturbed unless in just and lawful wars authorized by Congress....but laws founded in justice and humanity shall, from time to time, be made forNOW LISTEN CLOSELY TO THIS SONYA...made for preventing wrongs done to them and for preserving peace and friendship with them."

Why, even Justice Marshall admits that the treaties are still binding agreements. This meant that the United States was limited in any powers to regulate and control the affairs of tribes....If you will recall the definition of treaties as being agreements between sovereign nations, THEN, the tribes are NOT a part of the United States.

(PAUSE)

In its lust for lands and overzealous attempts to destroy the Indian way of life, the Congress got carried away with the idea of POWER.

In fact, if one looks at the record, it is clear that no such POWER is legitimate!

(PAUSE)

TECUMSEH continued:

There was never anything in the treaties which gave the United States the power to tell Indians how to live on their own lands.

In 1871, when the U.S. Congress passed a law against making treaties with Indian tribes; they also told Indians they must stay on their reservations....our people were forbidden to travel from their lands.....

HERBERT W. BRECK:

That's not quite true Tecumseh.

We allowed Indians to leave the reservations....as long as they behaved well. It wasn't true that they couldn't leave the land. The U.S. had to take power over them....they were our wards...and still are.

We sought only to protect them. Civilize them.

And make good citizens out of them....

The Indians were dying out...we set up a bureaucracy to feed and care for them. And we succeeded. Afterall, there are still Indians today.

JUSTICE MARSHALL:

I should remind you that the United States Supreme court ruled in 1903, in LONE WOLF v. HITCHCOCK,and I'll read it...

"When the treaties were entered between the United States and a tribe of Indians, it was never doubted that the power to abrogate existed in Congress.....

JUSTICE MARSHALL continued:

and that in a contingency, such power might be availed
from considerations of governmental policy, particularly
if consistent with perfect good faith towards the Indians."

(PAUSE)

This is known as plenary power of Congress.

SONYA:

Mr. Breck says that the tribes were wards of the United States and
Justice Marshall agrees that the U.S. Congress has power over
Indians....but Tecumseh has said that the tribes are NOT
a part of the United States....

I thought I was beginning to understand, but now I'm really
getting confused.

CHIEF JOSEPH:

You must understand Miss Yellow Feather. This BIA
superintendent has been expressing the prevailing
United States view towards tribal people. It is clear
that he does not understand the bonds which tie tribal
people together....Like other government officials, he
seems to think the Indian should give up his own view
and accept what the United States government tells it....
Always such men have tried to confuse the red man with
their claims to civilization and superiority.
But their lies are easy to recognize.

The Bureau of Indian Affairs has always hidden behind

CHIEF JOSEPH continued:

words and tried to ignore the treaties.

Miss Yellow Feather should be told in plain and simple terms what must be done.....

TECUMSEH:

I will summarize....

History has taught us many lessons today. We have seen that the white man will respect his written promises if we press the issue....

It is apparent that many of the written promises were onesidedly favorable to the view of the United States government.

Each tribe must look at its own treaties, agreements and constitutional ties to the United States....and the people must learn to talk in the white man's terms, not to be like the white man, but to be able to remain strong as Indian people.

It may be necessary to change the treaties in the future.....

ONLY the tribe can authorize this...the Congress and the rest of the people in the United States still do not have any legitimate right to interfere in the internal affairs of the tribes on tribal lands.

The treaties still guarantee this.

You must sharpen your wits, daughters and sons.

You must look carefully at words and know their real meaning.....the meaning of the treaty is still perfectly clear....

the two thousand or more laws of Congress regarding Indians are ILLEGAL and UNLAWFUL impositions on sovereign Indian Nations!

SONYA:

You have shown me that our people cannot afford to allow the whites to destroy our beliefs and customs.

Indian people, no matter what tribe we belong to, our destiny is in our own hands.

(PAUSE)

We cannot dwell in the errors of the past.

But we must move cautiously into the future and protect what is rightfully ours. Support our leaders who understand these matters.

That our people have always looked at the world differently from the white man is important to remember.....

That we are different is our strength and our future....

We must look to the future so the wounds of the past can be healed.

STAGE MANAGER:

Sonya Yellow Feather awakens from her dream with a renewed spirit and strength. She returns to her tribe knowing her people must live in the present before they can create their future.

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CREDITS