

= Lone Wolf v. Hitchcock =

Lone Wolf v. Hitchcock , 187 U.S. 553 (1903) was a United States Supreme Court case brought against the US government by the Kiowa chief Lone Wolf , who charged that Native American tribes under the Medicine Lodge Treaty had been defrauded of land by Congressional actions in violation of the treaty .

The Court declared that the " plenary power " of the United States Congress gave it authority to unilaterally abrogate treaty obligations between the United States and Native American tribes . The decision marked a departure from the holdings of Cherokee Nation v. Georgia , 30 U.S. 1 (1831) , and Worcester v. Georgia , 31 U.S. 515 (1832) , which had shown greater respect for the autonomy of Native American tribes .

= = Background = =

= = = Tribes = = =

The Kiowa tribe is a Native American tribe that has historically inhabited the southern Great Plains what is now present @-@ day Oklahoma , Texas , Kansas , and New Mexico . Originally from the northern great plains along the Platte River , and under pressure from other tribes , they eventually moved and settled south of the Arkansas River primarily in present @-@ day Oklahoma . The Kiowa had a long history of close association and alliance with the Kiowa @-@ Apache or Plains Apache . Around 1790 , the Kiowa also formed an alliance with the Comanche and formed a barrier to European @-@ American incursions into their territories . This alliance made travel on the Santa Fe Trail hazardous , with attacks on wagon trains beginning in 1828 and continuing thereafter .

= = = Treaties = = =

In 1837 at Fort Gibson , leaders of the Kiowa tribe signed their first treaty with the United States . By 1854 , the need for another treaty became apparent , and the United States entered into a treaty with the Kiowa , Comanche , and Kiowa @-@ Apache (KCA) at Fort Ackinson , Indian Territory . The treaty did not specifically designate a reservation , but was , for the most part , an extension of the 1837 treaty . There was an attempt to place some of the tribes on a reservation on the Brazos River in Texas near Fort Belknap , under Indian Agent Robert S. Neighbors . By 1858 , Neighbors resolved to move the reservation into Indian Territory . By August 1859 , Neighbors had moved the Indians from the Brazos Reservation to Indian Territory , south of the Washita River near Fort Cobb . In 1865 , near present @-@ day Wichita , Kansas , the three tribes signed another treaty that provided for the reservation in present @-@ day Oklahoma and Texas . Finally , in 1867 , the tribes agreed to the Medicine Lodge Treaty . This treaty provided for a much smaller reservation , and stipulated that whites were not allowed to encroach on the reservation . Also , to further reduce the reserve 's land would require the approval of three @-@ fourths of the tribal members .

= = = Assimilation period = = =

Within one year , the United States breached the treaty when General William T. Sherman ordered all the tribes to Fort Cobb , withheld the treaty payments to them , and requested an order declaring that all hunting rights be forfeited . At the same time , Indian agents were trying to undermine tribal authority as the buffalo herds were being eliminated by white hunting . Two new leaders emerged during this time period , Quanah Parker and Lone Wolf (the younger) Following his defeat at the Battle of Palo Duro Canyon , Parker settled down and began to adopt white ways . Lone Wolf and his followers continued to resist assimilation policies . Many of the old tribal leaders had been arrested and imprisoned when they left the reservation to hunt , and war leaders such as Lone Wolf (the elder) started to pass away from old age and disease .

During this same period , as the tribes had been unsuccessful at farming it , the KCA found a way to make the land pay by leasing it to cattlemen for grazing . By 1885 , about 1 @, @ 500 @, @ 000 acres (610 @, @ 000 ha) were being used to graze about 75 @, @ 000 cattle , with an annual payment to the tribes of \$ 55 @, @ 000 . At the same time , whites living just outside the reservation boundary were coming onto it to take timber and other goods , resulting in the tribes forming a police force to protect their property from white theft .

= = = The Jerome Commission = = =

In 1892 , the United States sent the Jerome Commission , consisting of David H. Jerome , Alfred M. Wilson , and Warren G. Sayre , to meet with the Kiowa to convince them to turn over most of their reserve for white settlement in return for \$ 2 million . Lone Wolf spoke out in opposition to the allotment , saying :

Now we have several good schools on the reservation , and to them we intend to send our children , where they will be taught the arts of manual labor . There they will learn to live like white people , and soon then they will be civilized . We advised our people to build houses , and quite a number of them today are living in houses . Some are building and still others are contemplating building . For that reason , because we are making such rapid progress , we ask the commission not to push us ahead too fast on the road we are to take . This morning in council the Comanches decided not to sell the country , and the Kiowas decided not to sell the country , and the Apaches decided not to sell the country . And I do not wish the commission to force us . That is all .

After over a week of negotiations , terms were set so that each member would receive 160 acres . The tribes would receive \$ 2 million of which \$ 250 @, @ 000 would be paid to members , with the remaining money to be held in trust for the tribes at 5 % interest . The commission immediately began to collect signatures and , just as quickly , allegations of fraud arose . Joshua Givens , an interpreter , was widely suspected of being dishonest . He was accused of forcing some members to sign and tricking others into thinking they were signing a document opposing the agreement . By now , the tribes were almost unanimous in their opposition to the agreement , asked to see the document , and requested that their signatures be removed . Lone Wolf later stated that this was refused and that they were threatened with violence . Jerome left the reservation with what the government claimed was the approval of three @-@ quarters of the tribe .

= = = Congress = = =

With the validity of the agreement in question , the tribes , joined by the Indian Rights Association (IRA) and local ranchers , lobbied against its ratification by Congress . The IRA wrote letters to Senators , stating that the agreement was : " utterly destructive of that honor and good faith which should characterize our dealings with any people , and especially with one too weak to enforce their rights as against us by any other mean as than an appeal to our sense of justice . " The Secretary of the Interior informed Congress that the allotment would be devastating to the tribes , as the land was not suited to farming , and the amount of land allotted would not allow them sufficient land to graze cattle . A bill was introduced in 1892 to ratify the agreement , but failed to receive the necessary votes . It was reintroduced every year until it passed in 1900 , eight years later . The agreement finally passed when the Rock Island Railroad agree to set aside an additional 480 @, @ 000 acres of pastureland for the tribes to hold in common .

= = = Lower courts = = =

At the ratification of the agreement , a delegation of tribal leaders traveled to Washington , D.C. and requested a meeting with President William McKinley . McKinley 's position was that the tribes must conform to the decision of Congress . Parker and the other principal chiefs accepted that the fight against allotment was over but Lone Wolf continued to argue against accepting allotment . In 1901 , Lone Wolf and others hired William M. Springer , a former federal judge and congressman .

== = Supreme Court of the District of Columbia = = =

On June 6 , 1901 , Springer filed suit in the Supreme Court of the District of Columbia , which is a different court than the United States Supreme Court . The plaintiffs asked for an injunction to stop the opening of KCA lands to settlement and the allotment of the land . Springer argued that the Jerome agreement deprived the tribes of their lands without due process and in violation of the Constitution by breaking the treaty with the tribes . Springer alleged that the KCA were duped into signing the agreement and that it was not signed by three @-@ quarters of the members as required by the treaty , that the KCA had protested the agreement from the beginning , and that the version which Congress ratified was different from the version signed by the KCA . While the suit was being heard , on August 6 , 1901 , the government began to sell off the tribes ' surplus land . Judge A.C. Bradley ruled against Lone Wolf , holding that Congress had the authority to allot the land , citing *United States v. Kagama* .

== = Circuit Court of Appeals = = =

Springer then appealed to the D.C. Circuit Court of Appeals . By the time that court heard the appeal , the reservation land had been allotted and excess land sold . The D.C. Circuit ruled that the question was not justiciable , rather it was a political question which had to be decided by Congress . The Court held that an act of Congress must prevail over any specific article in a treaty with an Indian tribe . The court further held that , in any event , the land did not belong to the tribe . It was controlled by the United States , with Indians as mere occupants . The Circuit Court affirmed the decision of the lower court .

= = Supreme Court = =

= = = Arguments = = =

At this point , the IRA hired another attorney , Hampton L. Carson , to take the lead from Springer . The arguments remained the same as they had in the lower courts : that the tribes were being deprived of their land without due process . The attorneys noted that the United States had never deprived a tribe of its land without some form of consent by the tribe . Carson and Springer highlighted *Worcester v. Georgia* and the Indian canon of construction in their arguments .

Willis Van Devanter argued the case for the United States , taking the position that Congress had the power to abrogate the treaty at will . Devanter cited *Kagama* as authority for Congress having plenary power over Indian matters .

= = = Opinion of the court = = =

Justice Edward White delivered the opinion of the unanimous court . The Court held that Congress had the authority to void treaty obligations with Native American tribes because it had an inherent plenary power , noting :

" Authority over the tribal relations of the Indians has been exercised by Congress from the beginning , and the power has always been deemed a political one , not subject to be controlled by the judicial department of the government . "

The decision was based , among other things , on a paternalistic view of the United States ' relationship with the tribes :

" These Indian tribes are the wards of the nation . They are communities dependent on the United States . Dependent largely for their daily food . Dependent for their political rights . They own no allegiance to the states , and receive from them no protection . Because of the local ill feeling , the people of the states where they are found are often their deadliest enemies . From their very

weakness and helplessness , so largely due to the course of dealing of the Federal government with them and the treaties in which it has been promised , there arises the duty of protection , and with it the power . This has always been recognized by the executive and by Congress , and by this court , whenever the question has arisen . "

The decision presented American Indians as inferior in race , culture , and religion :

" It is to be presumed that in this matter the United States would be governed by such considerations of justice as would control a Christian people in their treatment of an ignorant and dependent race . Be that as it may , the propriety or justice of their action towards the Indians with respect to their lands is a question of governmental policy , and is not a matter open to discussion in a controversy between third parties , neither of whom derives title from the Indians . "

White held that requiring tribal consent would actually hurt the tribes , and that the tribes should presume that Congress would act in good faith to protect tribal needs .

Justice John Marshall Harlan concurred in the judgment , but did not author a separate opinion .

= = Subsequent developments = =

This was one of the first cases where an Indian tribe went to court rather than resort to warfare to resolve an issue . It was also a major defeat for the tribes . Reports show that ninety percent of the land allotted to tribal members was lost by them to settlers . By the 1920s , the KCA tribes were impoverished , with an unemployment rate of sixty percent .

By 1934 , approximately 90 @, @ 000 @, @ 000 acres (36 @, @ 000 @, @ 000 ha) , which was two @-@ thirds of Indian lands , had been transferred to settlers . Until the Meriam Report was published showing the destructive effects of the policy , the allotment process continued unchecked . By the time Congress ended allotment , the KCA land went from 2 @, @ 900 @, @ 000 acres (1 @, @ 200 @, @ 000 ha) to about 3 @, @ 000 acres (1 @, @ 200 ha) . Also , the Court 's ruling meant that the only recourse left for Indian tribes to use to resolve land disputes was Congress . Indians were not eligible to bring a case in the United States Court of Claims under the Tucker Act , and were limited to actions in often hostile state courts .

Legally , scholars have compared Lone Wolf to the infamous Dred Scott case , and universally condemned the decision .