

### **E010: PULP LEGAL FICTION: THE BIZARRE CASE OF *TEE-HIT-TON V. US***

Today we do a 70-year retrospective on the 1955 Supreme Court decision, *Tee-Hit-Ton v. United States*, which reaffirmed the 1823 US claim of a right of domination announced in *Johnson v. McIntosh*. But *Tee-Hit-Ton* also did something else: It laundered the *Johnson* decision for 20<sup>th</sup> century sensibilities by deleting the word “Christian” from the “doctrine of Christian discovery”. That redaction made it possible for later judges – like Ruth Bader Ginsburg in 2005 – to avoid the religious basis of the claim of a right of domination. In fact, the rhetorical clean-up increased the use of *Johnson v. McIntosh* as a legal precedent in federal anti-Indian law.

We compare *Tee-Hit-Ton* with the decision one year earlier in *Brown v. Board of Education* that overturned the segregation doctrine of “separate but equal”. We explain how these two cases, apparently completely divergent in their outcomes, were actually on the same trajectory.

In *Brown*, the court overturned the “separate but equal” doctrine because it obstructed the “Cold War” quest of the United States to dominate international politics. In *Tee-Hit-Ton*, maintaining but hiding the doctrine of Christian discovery - the claim of ownership of the “North American” landmass, with its many sites of strategically important industrial resources (like the timber taken from Tlingit land) - supported a core U.S. geopolitical interest. Taken together, *Brown* and *Tee-Hit-Ton* were parts of a mission to dominate the world - literally.

#### **Resources:**

*Tee-Hit-Ton v. US* <https://www.courtlistener.com/opinion/105268/tee-hit-ton-indians-v-united-states/> {Access to briefs filed in the case are available only through databases like Westlaw.}

*Brown v. Board of Education* <https://supreme.justia.com/cases/federal/us/347/483/#tab-opinion-1940809>

*New York Times* coverage of *Brown* <https://africanamericancollection.com/relaunch/wp-content/uploads/2015/03/Brown-v-Board-1954-369kb.jpg>

*Johnson v. McIntosh* <https://www.law.cornell.edu/supremecourt/text/21/543>

William Blackstone, *Commentaries on the Laws of England*, vol. 2, p. 2 (1765) {“property; or that sole and despotic dominion”} <https://opencasebook.org/casebooks/510-open-source-property/resources/3.2.3-blackstone-commentaries-on-the-laws-of-england-vol-2-p-2/>

## DOMINATION CHRONICLES SHOW NOTES December 20, 2025

Joseph Story, *Commentaries on the Constitution of the United States* (1833), Book 1, Chapter 1, “Origin of the Title to Territory of the Colonies” <https://lonang.com/library/reference/story-commentaries-us-constitution/sto-101/>

*Universal Declaration of Human Rights* <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>

“Termination” Policy <https://www.archives.gov/research/native-americans/bia/termination>

“*McGirt v. Oklahoma*: Revealing and Concealing Domination”  
<https://www.youtube.com/watch?v=W9GFzDbzphE&t=167s>