

Native Peoples and Redefining U.S. History

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[00:00:00] Jeffrey Rosen: Hello friends, I'm Jeffrey Rosen, President and CEO of the National Constitution Center, and welcome to We the People, a weekly show of constitutional debate. The National Constitution Center is a non-partisan nonprofit, chartered by Congress to increase awareness and understanding of the Constitution among the American people.

[00:00:20] Jeffrey Rosen: This week, Ned Blackhawk's, *The Rediscovery of America: Native Peoples and the Unmaking of US History*, won the National Book Award. In this episode, we're thrilled to share a great discussion of Blackhawk's book, which explores five centuries of US history to shed light on the central role indigenous peoples have played in shaping America.

[00:00:39] Jeffrey Rosen: Ned Blackhawk, professor of History and American Studies at Yale, is joined by Northrop Professor of American Studies at the University of Minnesota, Brenda Child. This program was streamed live on November 1st, 2023.

[00:00:53] Jeffrey Rosen: It is a great honor to introduce our panel. We have two of America's greatest historians of Native Americans and American history here to teach us about the central contribution of that history from before the founding to today.

[00:01:13] Jeffrey Rosen: Ned Blackhawk is the Howard R. Lamar Professor of History and American Studies at Yale, where he's faculty coordinator for the Yale Group for the study of Native America. He's a member of the Te-Moak Tribe of Western Shoshone Indians of Nevada, and we're here to discuss his path-breaking new book, *The Rediscovery of America: Native Peoples and the Unmaking of US History*.

[00:01:36] Jeffrey Rosen: This important work has won widespread acclaim as our generation's leading account of the role of native people throughout US history. It's a finalist for the National Book Award, and it's a great honor to host Professor Blackhawk.

[00:01:54] Jeffrey Rosen: And here to discuss the book is another of America's greatest scholars of Native American history. Brenda Child is Northrop Professor of American Studies at the University of Minnesota, where she has chaired the Department of American Studies and American Indian Studies. She is the author of several landmark books, including *Boarding School Seasons: American Indian Families from 1900 to 1940*, *Holding Our World*

Together, and My Grandfather's Knocking Sticks. Her new book project is *The Marriage Blanket: Love, Violence, and the Law in Indian Country*.

[00:02:29] Jeffrey Rosen: Welcome, Ned Blackhawk and Brenda Child. It is a great honor to host you. Ned Blackhawk, my goal in this discussion is just to put as much of the history that you discuss in your pathbreaking book on the table so that our audience can learn from it. There are many places we could begin but I'm gonna pick the moment right before the American Revolution that you say marked the first American Revolution, and you tell the story of the Paxton Boys, a group of white settlers in Pennsylvania who rose up and rebelled against British officials because they identified themselves as settlers, and this combined with other uprising of, of settlers in the 1760s, you describe as the real beginning of the American Revolution.

[00:03:14] Jeffrey Rosen: Tell us about that, and then begin this crucial story of the central role of Native Americans in US history from the revolution on up.

[00:03:23] Ned Blackhawk: I'm delighted to be here, Jeffrey. Thank you for that warm and generous introduction. It's a real honor to partner with your acclaimed institution this way, and I'm extremely delighted to be joined by my friend and colleague, Brenda Child, in this conversation.

[00:03:38] Ned Blackhawk: You're pointing to one of the central features of the first half of this book that opens in the aftermath of a cataclysmic global war known as the Seven Years' War, often referred to in American history as the French and Indian War. And there have been many scholars who've written about that conflict in its aftermath but none has sufficiently carried forward, I feel, some of the implications of these studies to reorient more broadly narratives of the American Revolution.

[00:04:12] Ned Blackhawk: And as we approach 2026 and get ready for the 250th anniversary of the birth of the republic and the proclamation of the declaration itself, I think it's imperative that we look to this interior history and do so in part to see where the declaration's anti-indigenous ideologies originated.

[00:04:34] Ned Blackhawk: And it's not really well known, except in particularly Native American studies circles and within Native American communities themselves but the culmination of the Declaration of Independence sits with the inhabitants of our frontier whose antagonists are not the crown itself, but, quote, "merciless Indian savages whose known role of warfare is an indistinguished destruction of all."

[00:05:00] Ned Blackhawk: So that language and culminating concern animated the founders inherently and most kind of conventional narratives of American history, political development, and kind of revolutionary formation have not really adequately assessed it. So in chapter five of this new book called *Settler Uprisings*, I kind of worked through a growing set of studies in this field and make the kind of suggestions that you've identified that there are in, in the aftermath of the Seven Years' War a series of what I termed settler uprisings that occur particularly in Pennsylvania in 1763, 1764.

[00:05:50] Ned Blackhawk: And perhaps most least known in 1765, when further west from Lancaster with the 1763 uprising first erupts in December, troops known as the Black Boys attack overland, British convoys heading into the interior world of um, Eastern North America to supply and who are anticipating to supply Native American confederations that have formed in the late stages in the aftermath of the Seven Years' War.

[00:06:25] Ned Blackhawk: We've heard of these wars episodically, but never in kind of larger contextual form. But the summer of 1763 saw the outbreak of something known as Pontiac's War, which engendered such hostility and fear among settler communities in western Pennsylvania, about a thousand of whom were displaced because of the conflicts that they brought with them sets of grievances, fears, and hatreds that ultimately found their way into the declaration.

[00:07:01] Ned Blackhawk: That concern about frontier inhabitants that I just referenced from the declaration itself is articulated in 1763 and 1764 by these settlers who are concerned that the British crown is enacting sets of appeasements with interior peoples that are diplomatically recognizing they're agreeing to offer trade goods and exchange for peace and other kind of provisions of recognition.

[00:07:27] Ned Blackhawk: And this becomes a defining element of the revolution era. It's not the only cause of the revolution, but it predates the Stamp Act. It is articulated in Declarations of grievances that individuals and their groups issue. They're condemned by people like Benjamin Franklin in famous publications in the 1764.

[00:07:52] Ned Blackhawk: And there is a series of conflicts, the civil war, I wouldn't quite say war, but civil grievances that are violent at times around these issues throughout the 1760s. So that's where I locate what I call the indigenous origins of the American Revolution. And I hope that chapter kind of frames the revolution in the kind of broader context and shows how although native peoples themselves were not at the table, so to speak, when the declaration was drafted, concerns about them certainly were.

[00:08:25] Ned Blackhawk: And that's true of the Constitution as well in 1787, uh, which is chapter six of the book. And it's true throughout the aftermath of the early republic. So that's the kind of central claim of those chapters. And it kind of hopefully reinforces the overall argument of the book that like many, many scholars in the field upon whose work of synthetic interpretation is dependent.

[00:08:49] Ned Blackhawk: There is really no way one can understand the history of the United States outside of its indigenous context. Historians have done, tried to do so for a very long time but ultimately have yet to offer a more inclusive and accurate portrayal of North American history.

[00:09:09] Ned Blackhawk: And so this book, *The Rediscovery of America* draws its title from a generation or more of scholars, Brenda and myself included, who have been trying to remedy the erasure and omission of Native Americans from narratives of American history. We've come a long way and there have been a lot of kind of milestone achievements and developments along this path. But there's still a lot more work to be done, and particularly outside of the academy in more public and institutional spaces, perhaps such as your own.

[00:09:45] Jeffrey Rosen: Thank you so much for that. And that remarkable invocation of the language of the declaration itself, accusing the king of having induced Native Americans to rise up against the frontier inhabitants, is one of the examples of how you transform our understanding of the declaration and of the Constitution by reinstating the centrality of Native Americans in that story.

[00:10:11] Jeffrey Rosen: Brenda Child, tell us, first of all, about this broader effort that Ned Blackhawk describes to return in historiography, the centrality of Native Americans to the American story, and then tell us about this remarkable period from the American Revolution through the declaration, to the Constitution culminating in the constitutional effort as Ned Blackhawk says to establish federal supremacy over commerce and treaty authority with the tribes at a time when the states are fighting for that sovereignty.

[00:10:44] Jeffrey Rosen: How does putting Native Americans back in the American story change our understanding of the period from the Revolution to the Constitution?

[00:10:54] Brenda Child: That's a lot. But I will say I feel similarly to Ned in that a lot of us kind of struggled early in our careers as people who were pursuing doctorates in the field of American history, because we felt like we were left out of the narrative of American history.

[00:11:16] Brenda Child: I remember, even though it was sort of an interesting time, I think, for myself to be in graduate school, there was a kind of new social history, women's history was coming into our departments and regarding it as a field. But I always remember when I took my comprehensive exams in grad school that I couldn't do a field in American Indian history, because no one in my department thought it existed.

[00:11:43] Brenda Child: And it's kind of stunning to think about how far we've come, because we didn't teach a single course at my graduate institution, a Big 10 school in the Midwest, we didn't teach a single course on American Indian history.

[00:11:59] Brenda Child: And so, I think I always felt very committed to including Native people, centering them in the narrative. And so, people actually like Ned's advisor, Richard White, was a very influential person, I think, in our field at that time, who was really kind of encouraging this generation of scholars coming up to be more inclusive in Native history.

[00:12:25] Brenda Child: For me, as someone who'd grown up in a Native community in Northern Minnesota, I'm Red Lake Ojibwe. I was also interested in questions not just of the American past, but also questions particularly to my own community and our history. And so, that's sort of what I've tried to pursue as a scholar as just these questions that in some ways came from within my community.

[00:12:56] Brenda Child: For example I wrote about Native people's experiences in government boarding schools for my first book. But that all started with my grandmother, who had been the first person to tell me about government boarding school. I'd never heard the word Carlisle until she spoke that word, right? Where her dad had been one of the first people from our community to go away to government boarding school.

[00:13:22] Brenda Child: And so, that's been kind of the background to my historical career. Of course, we've also had not just with the growth of Native scholars working in the field of Native history, we've been really enriched by conversations taking place in our field of Indigenous studies as well. And what we find increasingly is that these are kind of global conversations we're taking part in. But I know that when I read Ned's book how struck I was with, if we'd had a book like that years ago, it would have been an amazing thing, or I was thinking too of Claudio Saunt's good book, *Unworthy Republic*.

[00:14:02] Brenda Child: I've always kind of been challenged when talking about Cherokee removal or the removal of the southeastern tribes. And I never really found a text that kind of resonated. And then you know, Claudio kind of turns things. So the Trail of Tears, which historians have always used that term, becomes now one of the first state-sponsored mass deportations in modern history.

[00:14:27] Brenda Child: And so, I think that's the other thing that scholars are trying to do. I think of Jeff Ostler's work on genocide in early American history and throughout the history of the United States as well. That there were terms that we need to have a contemporary vocabulary to talk about the past. We can't just use tragedy, the Trail of Tears and these sorts of ideas. We have to kind of get where the modern world is and look at history that way and American Indian history.

[00:15:00] Brenda Child: So what Ned's book shows is that history is continuously being revised, our vocabulary is being updated. And so, fortunately, we probably won't be unemployed soon because our work is never really done in looking at that history. And I'm so glad, especially for those, those early periods that Ned has done such a beautiful job of talking about it.

[00:15:27] Brenda Child: Not that he doesn't do a good job with the 20th century because I actually read the book in reverse. I started out with the 20th century because that's the era that I work in.

[00:15:36] Jeffrey Rosen: Thank you so much for that and for also the great recommendations of other scholars who can expand our understanding as well.

[00:15:43] Jeffrey Rosen: Ned Blackhawk, Brenda Child mentioned, of course, Indian removal and take us up from the story of the drafting of the Constitution through the Jacksonian period up to the Civil War. There's a lot going on there. You talk about how the Constitution gave the federal government plenary authority over treaties. After George Washington had gone out to survey his own territories in the Ohio region and became convinced of the need to stop competing state efforts.

[00:16:13] Jeffrey Rosen: And then, you tell the story of the efforts by states such as Georgia to assert authority over Native American to give Jay's Treaty as an example of an effort to exclude the British from those interior territories, which is such a central part of your story, those martial court decisions, and then taking us up to the eve of the Civil War. So the crucial part of the history take us up through it.

[00:16:39] Ned Blackhawk: Okay I think we might want to strap in a little bit, but it's great to kind of think through these really big sweeping subjects and such a kind of particularly focused and condensed form. The book is divided in half. The first six chapters are chronicle what is kind of commonly referred to as US colonial history or the history of Native imperial relations in my, telling. It's titled *Indians and Empires* and extends from the Spanish colonial period through the formation of British and French imperial worlds and then across the long 18th century culminating with the drafting and ratification of the Constitution, which is chapter six.

[00:17:22] Ned Blackhawk: And I'm kind of presuming that many of your audience members are interested in constitutional history in a particularly kind of essential or elemental way. So that chapter may help kind of frame the subject a bit maybe familiar to the specialist, but perhaps unfamiliar to others.

[00:17:40] Ned Blackhawk: It starts with the articles and mentions how relatively weak and unsuccessful they are. I like that some of the language I used in that chapter about how the articles of confederation constricted more than they confederated and kind of familiar weaknesses that many in the field know, but many outside of it are never really taught.

[00:18:00] Ned Blackhawk: And so, we're very rarely taught that the first government in the United States failed to govern effectively though it survived the revolution and helped initiate the Treaty of Paris and some very important early statutes like The Northwest Ordinance of 1787.

[00:18:15] Ned Blackhawk: So the Constitution then opens concludes the first half, and then the history of the early republic opens the second half of the book, which is essentially a kind of overview of federal Indian relations and affairs in kind of temporalized periodized form.

[00:18:31] Ned Blackhawk: So the first chapter of that section, chapter seven is on the early republic. And I kind of forced myself to try to make sense of a lot of competing themes and kind of debates and understandings in this subject matter. And I drew upon some kind of studies of the formation of American kind of racial legal categories one of Brenda's former colleagues named David Roediger, who's work kind of really helped me think through how whiteness became kind of a legal category in the early republic.

[00:19:01] Ned Blackhawk: It's not in the Constitution, but it's in one of the first laws Congress has passed is in the 1790 the Naturalization Act says that you have to be white essentially to become a naturalized citizen of United States. Something I'd never, never was taught in American graduate school or history.

[00:19:15] Ned Blackhawk: And so, this language of race is at the heart of the early republic's legal and kind of political discourses. And it's constructed not only obviously in relationship to African American struggles for emancipation and freedom, but also interior and resident indigenous peoples.

[00:19:33] Ned Blackhawk: And that struggle is trilateral or multilateral rather than binary in a kind of conventional racial understanding of America. And so, that chapter tries to bring indigenous history into a somewhat familiar tale of racial formation in the early republic.

[00:19:50] Ned Blackhawk: Like much of Native American history, it's not really a history of race in the way we think of it, but a history of politics and jurisdiction and sovereignty and authority. And so, things like treaties, government actions and also challenges between government or settler society become really central to these subjects. Like when the revolutionary era that had those civil divisions that we already gestured towards throughout the early republic, the federal government has this authority delegated to in the Congress, in the Constitution, but it's never really exercised it.

[00:20:25] Ned Blackhawk: And when it often exercises it, states resist it. We're familiar with state resistance to federal initiatives on things like slavery and its expansion and the jurisdiction of the federal government over state governments, particularly in the south. But we're not that familiar with federal commitments to Indian affairs that the southern states in particular are running roughshod over.

[00:20:44] Ned Blackhawk: So tribal leaders themselves struggle to make sense of how to survive in these rapidly changing times when the demography of the United States is changing so, so quickly. The revolution kind of unleashes a kind of deluge of settler settlements across the Trans-Appalachian frontier that had already begun. But now it has a kind of a national power behind it, the land policies of the new government, the growing forms of state incorporation, the economic trading practices of the young republic, its diplomatic kind of commitments to England and then France, which ultimately yielded Louisiana purchase.

[00:21:23] Ned Blackhawk: All of that is happening in an incredibly short period of time. And it's reaping dramatic kind of harrowing challenges for Native people. Over time, Native peoples come to see that they can use the US legal system for their own benefits, or try to at least. And that's what happens in the Marshall cases, particularly in the 1831 and 1832 cases. Cherokee Nation v Georgia and Worcester v Georgia, which is the kind of leading or seminal case of American Indian, Federal Indian law or Constitutional law formation.

[00:21:56] Ned Blackhawk: It's a little technical to kind of get into the details, but essentially the Cherokee Nation say to the federal government, "Look, your, your constitution says we are like foreign nations. State of Georgia can't have any jurisdiction over us." And Marshall, Chief Justice Marshall in that case says, "No. You're not a foreign nation, you're a domestic dependent nation." Whatever that means. You're thus under the jurisdiction of the federal government, but not independent from it. But you're not under the jurisdiction of the state government.

[00:22:29] Ned Blackhawk: We learned the next year in the Worcester case, which involves a US missionary. So can the state of Georgia enforce laws over Indian communities that affect US citizens. Justice Marshall and the Supreme Court say, "No. You can't." But Andrew Jackson says, "Yes, you can." And Andrew Jackson won't support the case as we all know, and thus leads to, as Brenda mentioned, the mass deportation of indigenous peoples from the south with essentially federal sanction.

[00:22:56] Ned Blackhawk: And not just sanctioned legally, but militarily and Claudio Saunt's book on where the republic shows that 40% of the entire US, uh, annual budget throughout many years in the 1830s was used to essentially pay for the removal of indigenous

populations. Farmers along the way had to be compensated for the resources that Indian peoples were consuming ferry boat uh, and army commanders needed payments for all of their work bringing these peoples west approximately 70,000 of whom were forcibly removed from Eastern North America throughout this area, both the north and the south.

[00:23:32] Ned Blackhawk: So those are the kind of general, contours of this. Often, as Brenda was suggesting, somewhat simplified narrative of removal. It's really one of contestation, struggle, federal dominion, and then a state assertions that have not been sufficiently kind of told.

[00:23:52] Jeffrey Rosen: Remarkable. Thank you so much for sharing all that in such a powerful way. You started with that really startling revelation that have to be white to be a citizen of the United States. And as you note in the book, Thomas Jefferson having exalted the declaration after the Louisiana purchase, supports a conception of citizenship that's racialized, that's limited to whites and also betrays his strict constructionist principles as an executive.

[00:24:20] Jeffrey Rosen: And then, you note this tension, whereas despite the Marshall courts nationalism the federal government resists, as you said, Jackson institutes the mass deportation. Brenda, what context can you shed on this crucial period? It's such a striking statistic that 40% of US annual budget was spent on Indian removal. But how was it that Jacksonian political resistance to the Marshall court led to this mass deportation? What was the intersection between the Supreme Court and the executive branch during this period? And how did the legal status of Native Americans change between the founding and the Civil War?

[00:25:04] Brenda Child: Yeah. So I'm someone who works on some of these same issues, but for a slightly later period of time. And one of the things I always like to tell my students who seem to be very surprised at this news that my grandparents were not citizens of the United States, right? So these issues of, of citizenship and Indian removal, we have all these are continuing stories that plague Native people into the later part of the 19th century.

[00:25:34] Brenda Child: And even into the 20th century, my own grandfather, for example, was removed from central Minnesota in the early 20th century when they were trying to kind of force Ojibwe people out of that region of the country. And so, I like to kind of call him a political refugee, because we don't really think of Native people as having a status, anything like that. But he was forced out of his homeland.

[00:26:00] Brenda Child: And then, he was moved to a reservation, White Earth, with his immediate family, his brothers and his father. And they kind of had to create a new life for themselves. And even though that was only 150 miles away from where he was dispossessed originally, it's still a big deal, you know, especially how when you think of movement, the circulation of people at that time, that was such a big deal.

[00:26:27] Brenda Child: So this is what Native people are faced with, the continual kind of threats of dispossession, removal. This is what our leaders are dealing with in our communities. And I think back to my own community, this Ojibwe community way up in Northern Minnesota, in the year, here where I am today in Minneapolis, St. Paul, I teach at

the University of Minnesota, we're here in this location because of we're at the confluence of the Mississippi and the Minnesota rivers.

[00:27:00] Brenda Child: And I always tell students, this is why the big real estate boom happened right here, right? This is one of the big geographic centers here in the Great Lakes. But very soon, after settlers began moving into Minnesota, and there was a huge demographic shift in a short period of time, there was a big war almost immediately, and a lot of what Ned's book is about, even though I think it's a great book and in the end, very optimistic, there's a lot of violence throughout this, throughout this history.

[00:27:33] Brenda Child: And in Minnesota, we'd like to think of ourselves as nice Midwestern people, and so forth. But I say it was really Minnesota's founded on one of the bloodiest Indian wars in the history of our country. In 1862, we had the largest mass execution in the history of the United States, when Dakota people were, Dakota men were hanged in the aftermath of this war.

[00:27:59] Brenda Child: So that's 1862. And so, here, my tribe is up in northern Minnesota, and you think, "Oh, we're out in the, you know, we're out in the forest and harvesting wild rice and life is still good." Except, you know, we didn't have news, the internet, but we knew what was going on in southern Minnesota. We didn't want the same things that were happening to Dakota people to happen to our people in northern Minnesota.

[00:28:27] Brenda Child: And so, our leaders made very difficult decisions in the aftermath of the Dakota war. So in 1863, my tribe negotiated their only treaty with the United States. And I always ask members of our community to think about how tied Dakota and Ojibwe history is here in the upper Midwest, because we have to make political decisions based on what is happening to Dakota people who seem to be in the middle of this big real estate boom.

[00:28:59] Brenda Child: And so, our leaders got busy and negotiated in 1863 and signed a treaty with the United States. And I was watching the Ken Burns' documentary on the buffalo a couple of weeks ago, and we ceded to the United States land west of us that was actually in the Red River Valley that was thousands of acres of prime agricultural land and buffalo country. And even though we kind of think of ourselves in northern Minnesota as being fishermen and people who live in the lakes and woods, that was our territory as well. We, our communities lived and hunted and get, and gathered and practiced farming in that era, in that area.

[00:29:45] Brenda Child: And so, imagine what motivated people in 1863, our leaders, we had hereditary chiefs, what motivated them to make a gigantic land session to the United States. And so, this is what tribes are faced with in the 19th century, right? During the treaty era. It's very personal. It's all about your economy. It's about your survival.

[00:30:14] Brenda Child: And one of the things that I find most moving when I read the documentation and the wording of those treaty negotiations is that our hereditary chiefs, I wanna cry every time I say it, they were thinking about us. They were thinking of future generations, and they always referenced their children's children, their children's grandchildren.

[00:30:44] Brenda Child: And so, they were trying to imagine a future as they negotiated treaties with the United States that included us, you know, future generations that we would still have an identity as Ojibwe people. We would still have our sovereignty. We would still have our ways of life.

[00:31:05] Brenda Child: And that's what's, to me, deeply impressive. So the United States is a really big force to contend with for our tribal leaders. But they made the best decisions they could in a very disadvantaged world in which they were now living. And that's what I kind of think a lot about when I consider kind of the treaty era of the 19th century, how tribe after tribe, tribal nation after tribal nation is forced to make these impossible decisions for the wellbeing and the futures of their people.

[00:31:43] Jeffrey Rosen: So powerful. Thank you so much for sharing both the story of your own ancestors and putting it in that remarkable context.

[00:31:52] Jeffrey Rosen: Ned Blackhawk, you've helped us understand the contribution of the Native American struggle to the struggle over citizenship. I just checked out Chief Justice Taney's infamous decision in the Dred Scott decision. And he cites that position of Jefferson that you noted that Native Americans couldn't be citizens to support his claim that Black people have no rights that white people have to respect.

[00:32:15] Jeffrey Rosen: He says, "In their untutored and savage state, no one would have thought of admitting them as citizens in a civilized community." And it just reinforces your point about the racialized nature of this debate over citizenship.

[00:32:25] Jeffrey Rosen: You then remind us of some jarring facts about the Civil War, in particular, that some Native tribes sided with the South and themselves owned slaves. So it was not a pretty story. Take us from the Civil War up through the beginning of the 20th century. There's a tremendous amount going on there. What happens after the war? How does Native American status change during a time when there's still no national citizenship for Native Americans, despite the 14th Amendment's passage for African Americans? And then, the crucial battles, of course of the, of the 19th century.

[00:33:07] Ned Blackhawk: The Civil War era, if we conceive it as not truncated by the immediate or exclusive conflicts between the Confederacy and the Union Army is a much longer kind of military and political struggle. The Civil War era is also a conflict for supremacy over much of the continent. In both the Confederate and Union leaders understood that the West would become a primary, not only terrain for the war itself, but also a potential kind of prize for whichever nation most appropriately seized it.

[00:33:49] Ned Blackhawk: And so, it's not coincidental that Jefferson Davis had been working within the Trans-Mississippi survey departments when he was in the federal government before the war envisioning potential railway routes across the southern portions of the American Southwest.

[00:34:05] Ned Blackhawk: It's not coincidental that Confederate leaders kind of forced, as you were referencing, tribal nations in Oklahoma to surrender their loyalty to the federal government. Many of whom were willing to do so because, after being forcibly deported

from the south their experiences at the hands of the American government weren't generally that favorably remembered.

[00:34:26] Ned Blackhawk: And the kind of central takeaway one might want to really kind of marinate on is that the United States in 1860 was a far different place than it became by the end of the war, the conflict between the North and South in 1865. Much more so than the difference between 1850 and 1856 or 1840 and 1846. The differences that came to the Union during the Civil War were seismic and transformative in ways that we may have been taught but never fully registered or comprehended.

[00:35:11] Ned Blackhawk: And I'm not saying that I comprehended and registered them, but I think, we as a national community need to do more to do so. The infrastructure of the federal government, the size of the federal government, the power of the federal government, the reach of the federal government, none of the, the features we think of as the kind of national government really existed in 1860.

[00:35:33] Ned Blackhawk: And I think I have some lines drawn from historians of the Civil War era that say things like most American citizens may not have ever seen a representative of the federal government in their lifetimes, which kind of highlights the kind of rural kind of unincorporated, kind of localized nature of life within, not indigenous, but non-indigenous American communities.

[00:35:58] Ned Blackhawk: Potentially, a single postmaster the Union Army was 20,000 strong in 1850. It's into the nearly a million soldiers both Black and white will serve on behalf of the Union Army during this conflict.

[00:36:13] Ned Blackhawk: So the nation goes through this extraordinary transformation. Indian affairs are central to multiple dimensions of the Civil War theaters. The last confederate general to surrender is a Cherokee general, Stand Watie. I write somewhat provocatively that the militia, militia campaigns that have already been conducted in California during the 1850s start receiving federal funding during the early years after Fort Sumner and the kind of growing confederate nationalist secessionist process.

[00:36:45] Ned Blackhawk: They start, the state militias in California start receiving federal funds to campaign against Native peoples. I don't ask this as a question, but I make it a suggestion that these then become the first casualties of the Civil War. People getting money by the federal government to and various kind of federal kind of incentives to campaign in Northern California are participants in some form in this larger continental struggle.

[00:37:12] Ned Blackhawk: So the Dakota War of 1862 is a horrific form of ethnic cleansing that occurs across the Minnesota River. It's followed very quickly by the Bear River Massacre in early January in 1863 in Northern Utah. The people who are at Bear River include a, a lieutenant commander by the name of Edward Patrick Connor. He's from California. He's marched east from California with federal troops to kind of subdue and subordinate indigenous peoples all across the Great Basin and into Utah.

[00:37:42] Ned Blackhawk: This is followed shortly thereafter by the Sand Creek Massacre in Colorado and the first removal of Navajo peoples from the Four Corners region to east of

the Rio Grande to a place called Bosque Redondo. There are these just kind of large scale military initiatives and campaigns to subordinate, remove, and sometimes massacre Native peoples during the war. None of that would have been possible without the war effort and mobilization beforehand.

[00:38:10] Ned Blackhawk: And so, that kind of military frame of kind of Indian, Indian-US relations continues after the war when military officials like General Sherman or Pope and others become major treaty diplomats among Indian in Indian affairs Grant institutes something called a peace policy in the aftermath of the war that tries to bring kind of stability to this deeply um, fractured nation. However, and this is kind of an answer to your long answer to your question, at the same time that the federal government is trying to resolve conflicts among the Lakota, resolve, which culminates in the Treaty of Fort Laramie in 1868, resolve conflicts among the Comanche in, in Kiowa, which culminates in the Treaty of Medicine Lodge in 1867, resolve all these tensions throughout the post-war era.

[00:39:03] Ned Blackhawk: The Congress has now gotten all the power it kind of has ever wanted. The South is gone as representatives to the government initially during reconstruction and Congress starts doing things that it hasn't really had the power to do in almost a century.

[00:39:19] Ned Blackhawk: They haven't touched the Constitution since 1802 or 1803 with the 12th Amendment. Now they offer three amendments in five years 13th, 14th, 15th Amendment. You mentioned the 14th Amendment, it doesn't include Indians. Historians have kind of failed to see what that means really.

[00:39:34] Ned Blackhawk: Eric Foner, a colleague and my co-author in one project I worked with him on calls the second founding the 14th Amendment it, it includes virtually everyone he writes in North America. Well, not the Indigenous peoples of America.

[00:39:48] Ned Blackhawk: So what does it mean that Native peoples are, are not included in the 14th Amendment? They're not included in the Civil Rights Act of 1866 either. So Congress is giving itself all this power, but not resolving this other problem essentially for the nation. Meanwhile, the federal government is trying to institute treaties and resolve conflicts with powerful equestrian peoples. Congress starts eroding all of those federal commitments or many of them over the next many decades.

[00:40:17] Ned Blackhawk: Reservations are established, like for the Lakota in 1868, the Great Sioux Reservation. It's cobbled down. Tribes are granted authority and provisions. They're taken away. Over time, this problem becomes one where railway interests, western settlers and others want Indian lands and resources, and Congress will help them do so.

[00:40:39] Ned Blackhawk: And so, various land policies in particular will alienate treaty lands and lead to the growing assimilative designs of the federal government to incorporate indigenous peoples, not as Indians, but as individuals into the body politic of America.

[00:40:55] Ned Blackhawk: So citizenship, Christianity, English language usage, domestic habits all this kind of normative assumptions about what constitutes kind of an Americanization program and American, idealized American subject become imposed upon

Native Americans. And this is where Brenda's work and has really kind of helped explore what that means on an individual kind of community basis. People are taken from their families and sent to federal-run schools.

[00:41:25] Ned Blackhawk: That doesn't sound like liberty to me, but that's how kind of Native Americans often appear in these subject matters. So that's the kind of general contours. There's lots of kind of detailed legal elements along that way, kind of Supreme Court cases that authorized Congress to have this kind of plenary power that you mentioned, but none of this was the, in the minds of the founders. None of this was in the minds of the treaty makers, both Indian and non-Indian, who negotiated these historic agreements.

[00:41:52] Ned Blackhawk: The treaties are supposed to be the supreme law of the land according to the Constitution but they've been violated repeatedly for Native nations without often much just or compensatory action.

[00:42:03] Ned Blackhawk: So it's not, as Brenda was saying, it's not really optimistic story for most of the narrative, but it gets there at the end, and if we have a little bit of time, maybe we can sketch some of that before concluding.

[00:42:15] Jeffrey Rosen: That would be great. Well, we will hope to end on a note of greater optimism, but this is not a happy period, as you say. And just that stark fact that the 14th Amendment grants citizenship to African Americans, to all persons born or naturalized in the United States, excluding Indians not tax, that infamous language. And it's not until, as you know, 1924 and the American Indian Citizenship Act that Congress ends the 137-year history of excluding Native Americans from citizenship.

[00:42:44] Jeffrey Rosen: In the meantime, from after the Civil War until 1924, there is this stark policy during what you call the reservation era, which subverts treaties, which uses Congress's new power to divide reservation lands and creates this phenomenon that Brenda has written so powerfully about, about these boarding schools, which remove Native American children from their homes in this system of forced assimilation.

[00:43:11] Jeffrey Rosen: Brenda, please share with us this dark period that you've written so powerfully about when Congress is using its power to brutally assimilate Native Americans.

[00:43:23] Brenda Child: I think that it's not really a well-known story in the United States, perhaps until the last couple of years when there has been more focus on the history of the Canadian residential schools, that we had a similar kind of policy in the United States. And I like how Ned has written about this in the Rediscovery of America also, because he's always very careful to connect this to the big picture of what's going on.

[00:43:54] Brenda Child: So with my work, I've tried to talk about individual people, what happened to students, the hardships, and the deaths of students. But there's also a bigger picture, because you have to remember that the boarding school era, if you think of Carlisle as being the first of these institutions founded in 1879, this is still the Indian wars are taking place.

[00:44:19] Brenda Child: Some of the first children at Carlisle were the were the children and the young people from the incarcerated Apache people who were imprisoned in Fort Marion in Florida, in St. Augustine. And then, also, the children were coming in from the Northern Plains, who were involved, their families were involved in military conflict against the United States.

[00:44:46] Brenda Child: And this is one of the point Jeff Ostler makes in his book about genocide is we have to remember that these are not just send us your best fighting forces and we'll bring our cavalry. These are wars upon families and communities. And so, I think a lot of parents saw boarding schools initially as maybe safe destinations for their children during this time of heavy military conflict with Indian tribes and the United States.

[00:45:14] Brenda Child: So let's keep in mind that the boarding school came out of this time of removal of military conflict with Indian tribes and the first schools like Carlisle were old army barracks. The kids always talked about wearing uniforms at school. And in fact, many of them in the 20th century, even before widespread citizenship in 1924, many of those kids went off to the World War One. They said, some of them said it was easier to go into the military than boarding school, but they were already in uniform.

[00:45:51] Brenda Child: But the point that I think Ned makes and that I always like to mention when I talk to audiences today about boarding school history is that we have to remember that the alienation from land continued throughout this 50-year period that boarding school history dominated Indian education in the United States.

[00:46:12] Brenda Child: Like Ned, I kind of look at these policies declining in the 1930s under FDR. But during that half century when boarding schools dominated Indian education, it was still a big land grab in the post-allotment era. And so, Indian people lost 90 million acres of land during that half century of boarding school history and education in the United States.

[00:46:41] Brenda Child: So I never wanna look at these policies as apart from one another. They went hand in hand, the General Allotment Act of 1887 and the and the boarding school program. So it's another plan for dispossessing Indians, not only as a cultural assimilation, but it's also the message, you don't really need your homeland anymore. As Ned says, you're going to become a citizen of the United States and enter, and not really be a tribal person anymore.

[00:47:13] Brenda Child: That's not what Native people saw as their future, but that was what boarding school education was all about. But we have to never forget that 90 million acres that were lost. So these, this is even after the treaty era, right? This is the post-allotment era of the late 19th and the early 20th century.

[00:47:35] Jeffrey Rosen: Thank you so much for that. Well, it is indeed time for closing thoughts. We got up to the dawn of the 20th century and Ned, there's so much to, to say. But in, in reflecting on the 20th century, which you describe in your final two chapters, there are grounds for hope. You talk about Supreme Court cases, including the United States Santa Fe Railroad case in 1941.

[00:47:57] Jeffrey Rosen: The first significant ruling in favor of native land rights and other landmarks in the transition from what you call the movement from termination to self-determination. So you've done a magnificent job in distilling the essence of these central periods as you reflect on the evolution of Native American rights and citizenship in the 20th century, what are the highlights and can you leave us with any grounds for optimism and hope?

[00:48:30] Ned Blackhawk: Many of us wouldn't do the work we do if we didn't have faith and hope and optimistic kind of sensibility. So it is though a very sobering subject that includes particularly within Native communities and families often very difficult and a personal legacies of various kinds.

[00:48:51] Ned Blackhawk: And I try to take inspiration from the strategies of survival that other indigenous peoples have initiated. And you see some of that in the early 20th century which is in chapter 11. And if you just kind of think about what those individuals and organizations were trying to deal with, a group like the Society of American Indians, they confronted this kind of just you know, heavy loaded sandwich of, of challenges that were being spoon-fed to them in all kinds of ways. Land loss forced removal of children, economic marginalization political it's all just on and on litanies of kind of forms of subordination. But they found strategies of survival and activism and advocacy.

[00:49:33] Ned Blackhawk: Those continued throughout the 20th century, they led to legislative new congressional laws, and many of them have endured throughout the late 20th and into the 21st century, making our kind of contemporary era one of particularly kind of important sovereign expressions and recognitions.

[00:49:54] Ned Blackhawk: These, however, are often challenged by a concentrated interest. Histories and tribal experiences or really don't care about them. And so, where all Native American communities and leaders and advocates are always, and their allies are always standing kind of guard against the next potential threatening law or policy or form of expansion that could conceivably erode the really hard fought gains of the last half century.

[00:50:24] Ned Blackhawk: And I chronicle some of those in the '70s, in the '60s, '70s and '80s, um, particularly highlighting the capacity of tribes in the Northwest and the Great Lakes in places like California and Florida to explore and enact certain sovereign expressions, whether they be over treaty rights in the Northwest or they'd be over regained lost lands and sovereign authority in the Midwest or over economic development initiatives in California and Florida.

[00:50:53] Ned Blackhawk: These tribes have become really for the first time in American history, at least since the formation of the United States, or within the United States, viable national communities who can protect themselves when needed against exterior intrusions. That was not always the case, as this history shows, but hopefully that may be much of the future.

[00:51:17] Jeffrey Rosen: Beautifully said. Brenda Childs last word in this wonderful and significant discussion is to you what would you like to say about the evolution of the status of

Native American citizenship in the 20th century? And are there any grounds of optimism that you'd like to leave us on?

[00:51:35] Brenda Child: You know, I am such an optimistic person that it's like I'm too optimistic sometimes. But I also think that Ned's book is ultimately an optimistic one, and I'm very glad that he has written a book that is comprehensive. I think it's a kind of a masterful book.

[00:51:57] Brenda Child: And one of the things that I noticed over the years is that we used to always blame historians, you know? We're not doing a good job in the classrooms or, early in my teaching career, I used to hear a lot from students who said that they had never learned a certain history.

[00:52:16] Brenda Child: We had never learned the narrative of American Indian history. I'd never learned about boarding schools. I'd never learned about the Dakota war and such. I don't hear that as much from my students as I used to. But I always think now we need to quit blaming historians for our shortcomings, especially when all of this trickles down into the classroom. Because I like to tell people these days that we're kind of living in a golden age when it comes to the writing of American Indian history. Right?

[00:52:46] Brenda Child: I was mentioning several books today, Jeff Ostler's book on genocide, Claudio Saunt on removal, Michael Witgen, our colleague's book on it called *Seeing Red*. And Ned's book is going to become a classic because this is just really a wonderful time to be working in the field of American Indian history.

[00:53:10] Jeffrey Rosen: Bravo. Ned's book is indeed going to become a classic like your works and like the works that you've just recommended.

[00:53:18] Jeffrey Rosen: Dear National Constitution Center friends, thank you so much for taking an hour in the middle of your day to learn about American history in all of its challenges and complexities and your homework assignment is the obvious one. Read Ned Blackhawk's book. You will learn so much. And by taking the time to educate yourself about American history and all of its complexity, you will learn and grow and be better able to create a more perfect union in the future.

[00:53:46] Jeffrey Rosen: Ned Black Hawk, congratulations to you for this pathbreaking contribution to our understanding of America. Thank you, Brenda Child, for your significant and remarkable contributions. It was an honor to host this conversation and we'll look forward to convening soon. Thanks to all.

[00:54:03] Ned Blackhawk: Thank you.

[00:54:07] Jeffrey Rosen: This episode was produced by Lana Ulrich, Tanaya Tauber and Bill Pollock. It was engineered by the National Constitution Center's AV team. Research was provided by Samson Mostashari, Cooper Smith, Tomas Vallejo, and Yara Daraiseh.

[00:54:21] Jeffrey Rosen: Please recommend the show to friends, colleagues, or anyone anywhere who's eager for a weekly dose of constitutional debate. And if you enjoyed this episode, please subscribe to Live at the National Constitution Center on Apple Podcasts or your favorite podcast app. That's the live feed of all of our free town hall programs.

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[00:55:01] Jeffrey Rosen: On behalf of the National Constitution Center, I'm Jeffrey Rosen.