Greenland and Vinland. Knowledge of North America was apparently still being recalled in Iceland in 1477, when a young Italian sailor, Cristoforo Colombo, visited and became excited by sailors’ gossip of land to the south and west of Greenland.

Bruce E. Johansen

See also l’Anse aux Meadows Viking Settlement.

References and Further Reading

Doctrine of Discovery

The Doctrine of Discovery references the logic of fifteenth-century Christendom that endowed European conquerors with self-assumed divine title over all “discovered” land and peoples. During this time Spain and Portugal were in fierce competition over the extent of their empires. As disputes festered, appeals for resolution often were presented to the pope—the recognized official arbiter between nations.

In 1455, King Alfonso V of Portugal made such an appeal, and in response the pope issued the bull Romanus Pontifex, confirming Alfonso’s right to dominion over vanquished lands while also underscoring his duty to:

[Invade, search out, capture, vanquish, and subdue all Saracens and pagans whatsoever, and other enemies of Christ wheresoever placed, and . . . to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his and their use and profit (Davenport, 1917, 23).

The bull Romanus Pontifex provides great insight to the world in which Columbus voyaged in 1492. When he sailed, Columbus did so as a servant to the royal crown of Spain and as a soldier of Christ, dutifully claiming and possessing “uninhabited” lands not found to be under the dominion of any Christian ruler.

The “discovery” of the “New World” reigned the competition between Spain and Portugal. King Alfonso V argued that previous bulls entitled Portugal to the newly discovered lands, whereas the Spanish crown disputed Alfonso’s claims, appealing to the pope to confirm their right to the New World. In response, Pope Alexander VI issued the Inter Caetera (1493), confirming Spain’s right to conquests in the New World:

[You have purposed with the favor of divine clemency to bring under your sway the said mainlands and islands with their residents and inhabitants and to bring them to the Catholic faith . . . and in order that you may enter upon so great an undertaking . . . we, of our own accord . . . and out of the fullness of our apostolic power, by the authority of the Almighty God . . . do by the tenor of these presents . . . give, grant, and assign to you and your heirs and successors . . . forever . . . all rights, jurisdictions, and appurtenances, all islands and mainlands [to be] found . . . (Davenport, 1917).

As the pope took on the heavy responsibility of dividing the New World between Spain and Portugal, the notion of occupancy emerged as a precondition for the dispensations of conquest. The irony of this did not go unnoticed by Native peoples, whose rights of occupancy were not only denied but categorically dismissed by the Law of Nations, a deeply racist “law” that proclaimed the world’s “heathen” and “infidels” to be in inherent need of subjugation. These rules of engagement, set forth by church and empire in the fifteenth century, formed the corpus of the Old World’s “Doctrine of Discovery,” entitling the conqueror to all the spoils of conquest.

The Doctrine of Discovery was incorporated into U.S. law several centuries later through Supreme Court Justice John Marshall’s majority decision in Johnson v. M’Intosh (1823). The question before the court was whether a land title obtained from Indians under British supervision at an open sale was superior to that obtained by the United States through a sale by designated land officers (Deloria, 1992, 299). The Court ruled in favor of the defendant, finding that only the federal government held the right to issue titles for Indian land. In the decision, Justice Marshall invoked the doctrine of discovery as the precedent by which “the discovering European nation” was granted “an exclusive right to extinguish the Indian title of occupancy,
either by purchase or by conquest" (Williams, 1986, 253–254). In effect, Marshall deemed the United States, as successor to Great Britain, the rightful heir to their spoils of conquest.

While Marshall was fully cognizant that his finding signaled a radical departure from modern, more "civilized" rules of engagement, he justified his ruling as follows:

[H]owever this restriction may be opposed to natural right, and to the usages of civilized nations, yet, if it be indispensable to that system under which the country has been settled, and be adapted to the actual condition of the two people, it may, perhaps, be supported by reason, and certainly not be rejected by courts of justice (Johnson v. M'Intosh, 1823, 591–592).

In other words, Marshall argued that the United States’ “claim to property titles was valid because to do otherwise would disrupt everything that had previously occurred” (Deloria, 1992, 300).

Grande (2004) notes that perhaps the most remarkable aspect of the Marshall opinion is the relatively uncritical manner in which it was adopted into U.S. law. One would expect, even by the standards of nineteenth-century democracy, that the invocation of a fifteenth-century Christian doctrine by a Supreme Court justice would be viewed as an act of sedition, especially by a nation struggling to retain the “wall of separation” between church and state.

In subsequent years, however, Marshall’s decision (and by implication, the doctrine of discovery) has been a popular rhetorical site of interrogation for legions of indigenous and nonindigenous scholars. Most recently, in Uneven Ground: American Indian Sovereignty and Federal Law, David E. Wilkins and K. Tsianina Lomawaima provide a thorough analysis of the doctrine of discovery and its impact on U.S. law.

In their comprehensive study of numerous treaties, laws, policies, and congressional directives, the authors identify three operating definitions of the doctrine of discovery in U.S. law and policy: absolute, expansive, and preemptive. The absolute definition equates discovery with complete conquest, not only denying indigenous peoples legal title, but also usage and occupancy rights. The expansive definition is less extreme, recognizing indigenous nations possessory and occupancy rights but denying any right to legal title. The operating rationale is that Indians are inherently incompetent to manage lands and are therefore in need of “a benevolent guardian” to hold “full legal title” (Wilkins and Lomawaima, 2001, 21). Wilkins and Lomawaima dismiss both of these interpretations as, at best, ill informed and, at worst, racist and ethnocentric. They furthermore argue that, while expansive and absolute interpretations of discovery abound, a competing and legally sound interpretation of the rights of discovery is both plausible and necessary. As a result of their analysis, the authors advocate a preemptive definition of discovery—one that grants “discovering” European nations “an exclusive, preemptive right to be the first purchaser of Indian land, should a tribe agree to sell any of its territory” (2001, 20).

Indeed, their analysis reveals that the preemptive definition of discovery was the original and most prevalent interpretation of discovery in the precolonial era. Wilkins and Lomawaima examine various documents regarding established treaty relations between American Indians and the Spanish, French, and British empires and conclude that, to varying degrees, all nations recognized and respected Indian title. Their examination of similar relations between the United States and American Indians in the early years of nationhood (1776–1800s) reveals a similar reality: that the United States originally acted as “first purchaser” and not as “ultimate proprietor” of Indian lands (2001, 51).

Wilkins and Lomawaima (2001) maintain that a radical departure from the practice of treating Indian tribes and nations as sovereigns did not begin until 1801 when Justice Marshall commenced his service to the Court and came to a head with the Johnson decision in 1823. They write:

As the preceding analyses show, no previous sovereign—including Great Britain—had acted as if it had a superior title to Indian land. . . . Even in Marshall’s time, the preponderance of historic evidence supported a recognition of Indian ownership of the soil that rested in the tribes until they chose to sell that soil to a bidding European sovereign (2001, 55).

Wilkins and Lomawaima furthermore maintain that subsequent cases—Worcester v. Georgia and Mitchell v. United States — indicate the Court’s own discomfort with M’Intosh, causing them to “back away from the language of conquest” (2001, 61).
Finally, the authors argue that perhaps the final linchpin in the case against absolutist and expansive interpretations of discovery is the fact that Native American nations did not participate in the M’Intosh case, calling into question whether the precedent set by the landmark case was ever legally binding (2001, 58). They conclude with the following compelling statement:

The doctrine of discovery, when defined as an exclusive principle of benevolent paternalism or, as it was in the McIntosh decision, as an assertion of federal ownership of fee-simple title to all the Indian lands in the United States, is a clear legal fiction that needs to be explicitly stricken from the federal government’s political and legal vocabulary. . . . Federal abandonment of the demeaning and unjust legal fiction contained in the absolute and expansive definitions of discovery . . . would be a significant first step in reformulating Indian policy so that policy is based on justice, humanity, and the “actual state of things” (63).

Sandy Grande

See also Tribal Sovereignty; Worcester v. Georgia.

References and Further Reading


Johnson v. M’Intosh (8 Wheaton 543, 1823).


Missionaries, French Jesuit

The members of the Society of Jesus, a religious order of the Roman Catholic Church, served as missionaries among Native North Americans during the sixteenth, seventeenth, and eighteenth centuries. Though by no means the only missionaries to attempt to convert the indigenous peoples of the continent to Christianity during this period, the French Jesuits tended to be the most organized and energetic. They are remembered in part for their remarkable travel accounts and historic records.

The Society of Jesus was founded in 1540 by Saint Ignatius of Loyola (born Ignacio López de