

Stephen Kantrowitz

Citizens of a Stolen Land, a Ho-Chunk History of the 19th Century United States

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Host: Stu Levitan

SL Hello again, friends, and welcome to Madison Book Beat, your listener-sponsored community radio home for Madison authors, topics, book events, and publishers. I'm your host, Stu Levitan. My guest today is UW history professor Stephen Kantrowitz, whose new book should be of special interest to those of us here in Teejop. It's *Citizens of a Stolen Land, a Ho-Chunk History of the 19th Century United States*, from the good people at the University of North Carolina Press.

If you're like most Americans with an immigrant background, you probably think citizenship is a good thing because it confers rights and privileges. But for Native Americans in the 19th century, it was something quite different. It was a way to destroy their collectivist culture and ultimately steal their land to replace indigenous society with settler colonist society. But some Native peoples, notably the Ho-Chunk, figured out how to use citizenship and private property rights to reclaim land and preserve their identity. The Ho-Chunk story in the removal era is one of both settler colonist violence and conquest, but also of Ho-Chunk resistance, persistence, and return. It is a story Stephen Kantrowitz is very qualified to tell.

He is the Plaenert-Bascom and Vilas Distinguished Achievement Professor of History at the University of Wisconsin-Madison. He is also an affiliate faculty member in American Indian Studies and Afro-American Studies at the UW-Madison, where he teaches courses on race, indigeneity, politics, and citizenship. His previous books are:

- *More Than Freedom, Fighting for Black Citizenship in a White Republic, 1829 to 1889*
- *Ben Tillman and the Reconstruction of White Supremacy*

And of particular interest to me, he co-chaired with Dr. Floyd Rose, president of 100 Black Men of Madison, the chancellor's committee in 2018 that produced a very knowledgeable and nuanced report on the Ku Klux Klan on campus. It is a pleasure to welcome to Madison BookBeat, Professor Stephen Kantrowitz.

SK Really nice to be here. Thanks, Stu.

In their language, what did the Ho-Chunk understand citizen to mean?

Well, up until fairly recently, at least in my conversations with Ho-Chunk people, citizen has not been a meaningful word in the Ho-Chunk language. There is a term, *higiheri*, which means belonging to a place or community, but that tells you something right there. It's not a

description of individual rights. It's not a description of the relationship of an individual to a polity. It's a description or at least connotes being enmeshed in a common world. Now, you know, citizen in its 18th century into 19th century implications has some of those feelings attached to it as well. We use it connotatively to talk about a sense of common purpose and shared achievement. But when it comes to law and to the technical meanings of citizen, we really most frequently are talking about individuals in their relationship to political structures. And that is not a particularly Ho-Chunk way of thinking, at least insofar as I understand that.

So everyone was on a collision course to begin with just from their background of what they understood the terms to mean.

Absolutely. Absolutely. But I think even more to the point, perhaps, the word citizen begins as a kind of a slogan of the Revolutionary Era and only really over the course of the 19th century in the United States develops firm meanings that are attached to law and to the Constitution. But from the beginning as a slogan, citizen seems to describe property holders, people who have a right to reside in a place, people who can't be forcibly expelled from that place, people who have adopted the sort of toolkit of Euro-American settler society. So fixed boundaries, the English language, probably Christian worship, and crucially, certain forms of property ownership, especially of real estate. Now, in the definition of citizenship, there's nested a series of kind of antitheses and what I call anti-citizenships.

And obviously, in the U.S. history, a crucial anti-citizenship is enslavement. Slaves are the opposites of citizens. They're dependent, dangerous, violent, you know, all of the things that in the eyes of citizens distinguish themselves from people not deserving of citizenship. And African Americans, you know, did and continue to labor under the stigma of that anti-citizenship.

Native Americans did and continue to labor under a different anti-citizenship, which is the anti-citizenship of the, quote, savage. And that the Constitution doesn't refer to them in those terms, but the Declaration of Independence does, referring to Native people as, quote, merciless Indian savages. And that idea of savagery and its antithesis to civilization defines Native people as the opposite of citizens and the negation of citizens.

And so the idea that they would or could be part of the American project as anything other than fully assimilated really strikes most Americans as highly unlikely and undesirable for most of American history. The notion of citizenship vis-a-vis blacks, former slaves, blacks following the Civil War would be an issue that we're going to get to in a little bit. I mean, that really confounded some of the members of Congress in trying to figure out what all that meant.

The Wisconsin Constitution of 1848 enfranchised, quote, civilized persons of Indian descent, not members of any tribe. Would there have been universal agreement on what those terms meant and their implications? No, there would not have been. Because it's a little bit like that famous Supreme Court definition of pornography. I know it when I see it,

right? But it's not codified. There is what I would call a penumbra of expectations around what civilization meant.

Now, not member of any tribe was a little bit easier to define. People who paid taxes, for example, in an American community were understood in some way to have sufficiently separated themselves from tribal government to be incorporated. And they could fall under that rubric, and some did in Wisconsin after the mid-century, in the 19th century. But no, there wasn't firm agreement.

And in fact, I would argue that that's part of the point, is that having a standard like that that sets out some parameters puts it in the hands of local settler officials, local white officials predominantly, to determine whether someone has or has not met that standard. And that, of course, was part of the point here, is that local settler communities could determine which Native people could or could not enter their boundaries in a literal or in a legal figurative way.

There's another piece of that constitution, though, which is equally interesting, which is that persons having once been declared citizens of the United States, even if that citizenship has been revoked, are understood to be citizens of Wisconsin. And that refers to the Stockbridge-Munsee band of Mohican Indians, who had, like the Brothertown, become citizens of the United States earlier in a decade, but who had had and continued to have kind of a civil war within the community about whether that had been a good idea and about the really dangerous effects that that had opened up with the ability of white settler society and its settlers to seize their land.

And so the Stockbridge-Munsee had actually successfully had their U.S. citizenship reversed, and their tribal status regained before the Wisconsin Constitution was put into place. But that had left all kinds of property claims and other matters in dispute kind of hanging there. And so the Wisconsin Constitution, in establishing the citizenship of that particular group of Native people, was seeking to continue the possibility that those land contracts would be good and that settlers could continue to amass and take possession of Stockbridge land.

One thing that wasn't ambiguous in that era was the attitude of first the territory and then the state. And the first great seal of the state of Wisconsin essentially says the quiet part out loud. It shows an Indian heading off into the distance with the motto, "Civilization Succeeds Barbarism." A slogan that Henry Dodge himself I'm sure would have endorsed.

Absolutely. He actually designed this.

That's it in a nutshell, isn't it? The settler attitude towards the native peoples.

Yeah. There's a very amorphous and yet very powerful idea of what civilization is, what's encompassed in it, and who doesn't fit into it. And the idea is that Wisconsin will be the happy home of a new civilization organized around a new race, white people, organized around a new form of land use, private property ownership, cereal and other intensive kinds

of production, and that there won't really be a place for native people in that world unless, perhaps, they're willing to adopt most or all of that toolkit and, quote, civilization, and enter into the society on those terms, not as members of a tribe, not as members of a distinct culture, but as assimilating Americans.

And that attachment to civilization would manifest itself by everything from their clothes to their hair to the division of labor.

Yeah. The idea, going back to Thomas Jefferson, the sort of, I mean, if you want to call it utopian, you can. From a native perspective, it's anything but. But from a settler utopian perspective, rather than being annihilated in the conquest, native people would melt into American society and be absorbed into it. And that is a recurring theme in U.S. Indian policy. You know, it undergirds many of the most horrific moments in policy, in fact, including most recently the termination policy, which was such a disaster for the Menominee Nation in the 1950s. The idea that you could simply say, whoop, Indian time is over. It's American time now. People need to just assimilate into American society, full stop. And of course, you know, native people who retain community and identity and culture and language, for them, that insistence is just catastrophic if the government tries to enforce it or to use that policy to undermine native forms of self-determination, sovereignty, and cultural life.

How much did something as basic to the native people's way of life as the division of labor offend and upset and confuse the settlers? The fact that women were, like, digging lead. I mean, how hard was that for the settlers to get their heads around and understand?

For settlers, generally, the division of labor in many native societies, including in Ho-Chunk society, mystifying and a sign of a culture completely out of step with, quote, civilization. Because women were visible doing both farming and mining, and those two activities did not strike settlers as reasonable or proper activities for women. Men's economic activity or men's subsistence activity involved hunting, among other things, and that struck many Americans as a kind of a, not exactly a leisure pursuit, but an undisciplined pursuit, which was anything but an undisciplined pursuit. It was a highly disciplined and crucial economic activity. But Americans saw it as a sign of native men's unwillingness to do the sort of hard, systematic labor of farming, which in their view was the sign of a well-disciplined household. So it was all, from a settler perspective, what they saw happening in Ho-Chunk and other native societies was topsy-turvy and just badly ordered.

By 1848, of course, we'd already had three very significant acts by the United States government:

1. **The Preemption Act of 1830.**
2. **The Treaty of 1832, which led to the founding of Madison.**
3. **The Treaty of 1837.**

What were their respective impacts?

So there's two pieces of legislation in 1830 that really matter. One is the Indian Removal Act, which establishes as a formal federal policy that the president will say, either accept our bid for this land and go exchange it for land west of the Mississippi, or we're going to extend state law over you, and that's it for you, because most states had highly discriminatory policies in effect for non-white people. And so Native people who chose to remain under state law would be in a terrible situation, unable to enforce their rights in any way.

The Preemption Act goes hand in glove with the Indian Removal Act, because what it says is, if you've squatted on the, quote, public lands of the United States, which means any land that used to belong to Native people, but now the U.S. has asserted authority over, we'll respect and recognize that claim and allow you to purchase that land at a very low price. And what that means is that gives squatters basically every incentive in the world to cross the treaty line, squat on Native land, and presume that the federal government will come and make those claims good. And the Indian Removal Act virtually guarantees that that's the case. It doesn't work in literally every case, but it works in so many that these two laws together really create this two-step, I call it, of squatters and soldiers.

So the squatters cross the line, they seize the land, they get into conflict with Native people. The army is called in first as a quote, peacekeeper, and then essentially to push Native people out. And then the line is reestablished at a point farther west, and the process repeats. And you get regional warlords like Henry Dodge.

Exactly, and regional warlords like Henry Dodge are exactly the people who make good those squatter pretensions to the land, because they come in armed, they come in in numbers, they come in exploiting resources and making money. And as soon as the federal government comes in, when they're looking for local people to enforce their laws and their principles, that's who they turn to. So Dodge creates an illegal squatter frontier militia, and within a couple of years, it becomes a unit of the federal dragoons. He's incorporated into the federal army and is a colonel.

And becomes the first territorial governor.

Exactly, exactly. And so this is a, it's a fairly ugly process, really, when you understand it in those terms as it begins in illegal settlement and ends with its ratification. The treaties of 1832 and 1837, crucial documents here, as you say, 1832 is the legal basis for the existence of the city of Madison, among other things. It includes not just the region that the Ho-Chunk called the Teejop, but also a huge chunk of the land recognized as their homeland by the United States just a few years before in 1825 in the Treaty of Prairie du Chien.

The Treaty of 1832 is pretty naked land grab. It comes following the Black Hawk War, which is the pursuit of a band of dissident Sauks, mostly, by the U.S. Army and territorial militia across the Ho-Chunk homeland, and in which the Ho-Chunk had played really fairly minor military role. A few had sided with Black Hawk and his band in military terms. Some had served the U.S. as scouts and in other capacities. Overall, the Ho-Chunk had actually

tried to keep the peace during that struggle by hiding Black Hawk's band in the swamps north of Lake Koshkonong. And it almost worked. And if they'd succeeded, it's possible they could have delayed the entry of the U.S. in force into their territory. But Black Hawk's band were discovered, chased across the territory, massacred at Bad Axe. And in the aftermath of that massacre, with thousands of U.S. soldiers scattered across the Ho-Chunk homeland, the U.S. sits the Ho-Chunk down and says, here we are. We like the look of this land. We're going to take it now. And the treaty commissioners are really open in their letters back to Washington. This treaty was made on the blended grounds of contract and coercion, they say. It's quite frank, right? They wanted the land, they had the military force in place to take it, they took it, and the Ho-Chunk signed it under duress. Treaty of 1837, which strips the Ho-Chunk of the rest of their domain in today's Wisconsin, is even more naked land grab than that. They coerce a delegation of Ho-Chunks into coming to Washington, they don't want to go, they refuse to go, when they do finally go, they send delegates who are not from the clan that is authorized to treat for land. Thinking that this will protect them from having to sign a treaty they don't want to. But in Washington, they're further coerced, they're threatened, they're lied to. When they finally sign the treaty, kind of in desperation, fearful that they won't be able to get back to the homeland in time to plant, they think that they have four years to get ready to leave Wisconsin. In fact, the treaty says eight months.

So there's just a really fairly naked and ruthless succession of coercions and lies that lead to the Treaty of 1837, which finally brings the federal government to a series of military attempts to remove the Ho-Chunk from Wisconsin over and over and over again in the late 1830s and on through the 1840s and 50s. The Black Hawk War, of course, introduces us to Captain Abraham Lincoln, who fought many bloody battles with the mosquitoes. We will get back to the settler colonist president Abraham Lincoln in a bit. The U.S. attitude towards treaties seems to be either imposing really harsh terms or dealing or having a fairly okay treaty and then ignoring it. Is it possible to sketch out an alternate history of the United States in which the government negotiated fair treaties and actually enforced them?

So it depends on demography, I think. The way that the United States, from its first movement across the proclamation line in the 18th century, approaches the question of Western lands is as a question of what will later be called manifest destiny, as a question of entitlement rather than negotiation.

And negotiations with Native people only take comparatively egalitarian and respectful form when the Native people are understood to have the kind of military force that's required to press back against the United States. So in the 1790s, in the early 1790s, when Native delegations come to Washington, President Washington tells his cabinet, I know that our goal is to take their land, but don't say it. We don't have the military capacity to make good on that, and it's going to cause a world of trouble. And indeed, in the early 1790s, U.S. armies get routed by Native confederacies and forces in the Ohio country. It's not until 1794 and then the treaty in 1795 that follows it that the U.S. begins to have the

kind of military might in the West to push Native people across those lines repeatedly again and again.

But again, throughout the 19th century, Native people as individual tribes or bands or in larger confederacies push back militarily against that conquest, sometimes with some success. We don't recognize those successes so much when they happen because they're absences rather than presences in U.S. history. But, for example, during the 1840s, when the U.S. is consumed with a struggle over Western expansion, over the terms of Western expansion, over the question of slavery, U.S. expansion into the West is really stymied by that internal U.S. debate.

And while that happens, the Lakota, in particular in the northern plains, gain enormous military strength and are able to create the kind of political, economic, military force that really deters U.S. entry into that territory in a significant way for decades. And then, of course, and the culmination of that comes, of course, you know, in the Plains Wars of 1870s and the battle we know as Little Bighorn, which is, in fact, a victory over the U.S., kind of becomes the signal for the end of that military dominance over that territory. But it's worth thinking about the fact that for several decades, the military might of the Lakota deterred the US from enforcing or pressing upon them the kind of confiscatory treaties that we see in other places.

But in the lower Great Lakes and in the Western Great Lakes, the territories that we're talking about here, the native formations after the Shawnee Confederacy in the early 18 teens, Tecumseh's Confederacy, don't really have the power to press back against the US to deter or repel those processes. And so treaties end up being a kind of ratification of US demands as much or more than a negotiation in good faith between sovereigns.

We're talking with Professor Stephen Kantrowitz. His book is *Citizens of a Stolen Land, a Ho-Chunk History of 19th Century United States*. Where did the idea for the government to use citizenship as a way to steal native lands come from in the first place?

Well, it evolves out of a series of treaties in the early 19th century where the word citizen crops up here and there as a way of saying, oh, these, for example, Cherokee leaders can stay in the territory that we're now taking for the United States, and they will be citizens of the United States.

And over time, as the federal government begins to press, actively press the policy of civilization on native nations, the word citizen begins to come up in treaties and laws of the 1830s as a way of signaling these people are now incorporated into the United States as individuals rather than as members previously of their tribal nation or community. So it develops really piecemeal across a lot of treaties, including in treaties in Wisconsin and laws in Wisconsin in the 1830s and 40s.

It's not really until the 1850s that federal policy kind of routinizes this and says, okay, citizenship is going to be a part of the toolkit along with private property ownership and the dissolution of the tribe that is going to mark the incorporation of a native community into

the United States. And even then, even when they make that a kind of formal practice, they don't always remember to put the word citizen in the treaty. So it's a fairly inconsistent practice.

Because the word citizen doesn't have so much clarity of legal or constitutional meaning in the eyes of Americans. In fact, in 1862, in the middle of the Civil War, a case comes before the attorney general that asks whether these free Black men who seized a Confederate ship can claim it as a prize. And the question is, are they citizens? And therefore, are they eligible under US law to claim that as a prize and get the money for it? And he says, huh, well, you know, we've been living with this word citizen for 80 odd years, but none of us really knows what it means. And this is the attorney general of the United States. So it really takes the post-war amendments and laws to begin to set some parameters around citizenship and give it that clarity of meaning, at least in national terms.

But using it as a marker for differentiation, as I understand it, they use citizenship to dissolve the tribal rights and dissolve the collective community and make the land easier to steal. Did that arise just organically as opposed to somebody, as opposed to, you know, James Madison or John Marshall or Andrew Jackson saying, ah, here's an idea?

It's a great question. You know, I see it emerge as an idea as part of a matrix of ideas designed to take land. But there's no, I have not seen a light bulb moment where federal policymakers go, oh, we'll call it citizenship and that'll let us do this because they don't use the word with consistency, even in treaties that are clearly designed to dissolve tribal collective ownership. Sometimes they do. The treaty with the Wyandotte in 1855 and a series of other treaties that have really catastrophic effects for the native nations that adopt them. Really catastrophic effects for the native nations that adopt them. Citizen Potawatomi come in under those terms, but sometimes they don't. Sometimes they just don't use the word citizen, even though later on they go back and they look at the treaty and say, oh yeah, we made them citizens there, even though the treaty doesn't say citizen. What they mean is we dissolved the tribe and divided their land into private holdings, and that constitutes citizenship in the eyes of later policymakers.

What about your lightbulb moment? As I noted in the introduction, citizenship is generally perceived as a good thing. You and I both have ancestors, maybe not too far back, for whom citizenship was a very big deal. Did you have an aha moment when you suddenly understood that it was also a tool for land grabbing and imperialism?

Yeah. I think about a lot of lightbulb moments in terms of this project, but I think that moment occurred to me kind of backwards because I first thought about the word citizenship in terms of this history when I encountered the crucial moment in the 1870s when the Ho-Chunk use it, deploy it back against the United States as the way that they will claim the right to stay in Wisconsin on their own terms. And so I looked at it first there as a triumph, actually a very productive and positive use of the concept of citizenship, more akin to the kind of reconstruction African American claim to citizenship or the civil rights claim to citizenship following from those constitutional changes, that form a part of a progressive

narrative of citizenship, the more positive one that you're referring to and that I think both of our ancestors profited from when they arrived in the United States.

But it only later began to dawn on me that this was an ironic use of citizenship in Indian country and that they were deploying a policy that for the most part had been used to undermine rather than bolster Native sovereignty. And that took me, that wasn't a lightbulb moment, that was a long grinding kind of reconsideration of making arguments and realizing they really didn't work and going back into the sources and just really doing a keyword search for citizen across the entire corpus of American treaties and then realizing what the timeline told me. And then belatedly realizing that I was not the first person to figure this out, but that's just the cost of coming to this field kind of late in my career and having to reverse engineer an education for myself.

But isn't that the great thing about being a professor, being a researcher is, okay, what about this? And however long it takes, you finally figure it out and go, oh, this is interesting. I hadn't realized this before.

There is nothing so beautiful to me as mid-career ignorance because it's not going to cost me tenure. It's not going to be the end of my world that I got something pretty wrong. I go ask for help. And the beautiful part about that is I get to go ask for help from graduate students and brilliant young assistant professors and I get to get mentored by 30-year-olds. And that's phenomenal. I love that. And that's been a really rejuvenating and fascinating part of this project and of the stage of my career too is to get to do that again, right?

Well, on that point, your academic background has been in the black-white world before the war, war, post-war. How did you come to start looking at the same kind of issues through the Native American lens?

Yeah. So I had always known that there was something missing from my education. I was maybe assigned a total of one book and one article in Native American history in the entirety of my graduate education. And I'm not blaming my advisors exactly. I'm blaming the profession for having really almost totally failed to integrate and account for Native history as part of U.S. history. But when I started teaching at UW, I would try to bring Native American history and Native perspective into classes, and it never fit. It was always contrapuntal. It was always in tension with the rest of the course. And I felt very frustrated by it. And I stopped trying, really, very much. then in the 21st century, especially in the 2010s, more and more of my colleagues began to look west, began to, colleagues in Civil War, Reconstruction, mostly organized around Black-white histories, began to look west and think west. And what we found there was the same thing you'll find if you pick up an American history textbook published before 2015 or so, which is you get to the end of the Civil War and then you have a chapter on Reconstruction and a chapter on the West. They take place at the same time, but they have nothing to do with each other. It's like a chapter on the coming of the Civil War, which is a chapter about abolition and pro-slavery and that conflict, and a chapter on Manifest Destiny. They sit next to each other. They've got nothing to do with each other. How can this be? It's the same nation. It's the same

personnel. It's the same people. It's the same institutions. It's the same geographies. How can it be that we have kept these so segregated from each other?

And the answer is that Native American history is a fundamental kind of epistemological and existential challenge to US history. It says, nope, somebody else owns this land. Somebody else lives on this land. And the empty space that the American map of the West imagines is not empty. But to take account of that, really to take account of that, is to call into question many of the foundational assumptions of that other Eastern-focused history.

To bring this back to Abraham Lincoln, we have one really powerful set of arguments and conversations about Abraham Lincoln. Was he the white man's president, as Frederick Douglass famously calls him at one point in the 1870s? Was he the great emancipator? Was he both? Douglass actually did think he was both. How do we understand Lincoln's anti-blackness in relationship to his commitment to creating a non-racial nation? And in fact, at the end of his career, his willingness to put democracy over white supremacy, which is a choice that no other American president of the 19th century made. So that's a really fraught and powerful conversation, and one you could have all day about the value of thinking about Lincoln, about his worthiness as a president, about his meaning for American race relations understood as black-white. Those questions continue. Scholars continue to struggle over that. I was just part of an anthology on this question, published last year. This is a crop that never fails in American history.

But the question of Lincoln as a settler president, and a Lincoln who never imagined that any Native nation should stand in the way of US expansion into the West. You know, Lincoln who signs the death warrants for the Dakota 38 in Minnesota in 1862. Lincoln who signs the order expelling the Ho-Chunk from Wisconsin, excuse me, from Minnesota in 1863. You know, that Lincoln never shows up in our account of this. That settler president is not part of our story because it's destabilizing.

The question of whether the value of a Lincoln statue can be argued about in terms of his legacy in the Civil War and Reconstruction and in relationships between black and white people and the American nation. A Lincoln statue on Bascom Hill is a monument to that. It's also a monument on the Ho-Chunk's highest hill to a member of the settler conqueror army. That's a complicated thing.

Reading the bits about Lincoln in the book reminded me, oh yeah, this is why that statue is offensive to a lot of Native peoples. In terms of the overlap of the Civil War and the story you're telling, the Battle of Antietam happened during the Dakota Wars.

That's right. That's right. It's not an accident that the Dakota go to war with the US when the US is otherwise preoccupied. That's a strategic decision, you know, and one similar to the kind of strategic decisions made by enslaved rebels, for example, earlier in the century to go to war with the US when it's preoccupied and decide with its enemies when possible, you know, to make a coalition. In fact, there's a lot of rumor circulating around. To make a coalition. In fact, there's a lot of rumors circulating around in Minnesota and Wisconsin in the 1860s that the Dakota and perhaps the Ho-Chunk have made an alliance with the

Confederacy. I don't think that's true. I'm pretty sure it's not true. But it is interesting to think about Native people in the upper Midwest thinking continentally and strategically about the United States and their enemy, right, as engaged in a total war that's going to take its attention away and take its soldiers away.

While we're on the topic of famous white men with difficult backgrounds, Frederick Jackson Turner.

Yeah.

As a young scholar, was there a part of you that was thrilled at becoming a member of the history department that Frederick Jackson Turner once made famous?

So by the time that I joined the department, which is in 1995, Turner's legacy was, I would say, already contested. You know, Patricia Limerick had published *Legacy of Conquest* some years before. The bubbling up of a kind of contrarian Western history that did not think about the frontier in Trinarian terms, in fact, rejected Trinarian terms for the frontier had already emerged. On the other hand, my very senior colleague at that point, Bill Cronin, was the Frederick Jackson Turner professor of American history. And there was a bust of Frederick Jackson Turner in our department lounge. There was an oil painting of him still in our conference room. He's a crucial figure in the history of American history and in the history of American history at the University of Wisconsin. There's a plaque to him on Bascom Hill sitting directly across from the Our Shared Future marker, which recognizes that this is Ho-Chunk land. You know, the legacy remains contested in the department. I would say I don't think that I had anything more than ambivalence about taking on that legacy.

A couple of years after I arrived in the department, we hired a Native American historian for the first time in a long time, Ned Blackhawk. And his first book, which came out in the early 2000s, won the Frederick Jackson Turner Prize from the Organization of American Historians. And even by that point, we were joking that Ned should take the prize and hang it around the bust of Turner's neck with violence over the land, which is the title of his first book, around it. So I think we were, I was and we were younger scholars already skeptical, at least, of Turner's legacy and about that. And I will say, you know, we have a Frederick Jackson Turner professorship in the department, and it was endowed by Merle Curti, a much beloved historian in his department and a wonderful person who I had the privilege to meet when I was a very young faculty member. Curti named it in honor of his beloved mentor. And so it's sitting in the department. But I'm not sure you could find an American historian in the department right now who wants to be the Frederick Jackson Turner professor of American history. I could not take that up, for example, and look my Ho-Chunk colleagues in the eye. I wouldn't think to do that. That would seem to me to be grotesque.

For those who haven't read the book, and I do highly recommend reading the book, explain briefly his racist perception of the Ho-Chunk and in particular the role his father played in advancing the settler conquest.

So Frederick Jackson Turner was born in Portage in the 1860s, and his father was the editor of a pro-removal newspaper that sort of beat the drum over and over again about how the remaining Ho-Chunk needed to be deported from the state. They were a nuisance. They were a problem. And Turner grew up in that world and in a world in which actual federal troops did come to Wisconsin in 1874 and try to expel the Ho-Chunk once and for all from the state. And the fact that they failed is an important part of this history, but they didn't fail because Turner's father wanted them to fail. He wanted them to succeed. And Turner grew up in that world. As a boy, Turner went fishing with his friends along the Baraboo River. He would encounter bands of Ho-Chunk people and write about them later only in the most derogatory, derisive, fearful ways. They're alien, savage, outsiders, relics of another time, untrustworthy, primitive, all the things one can imagine a young boy projecting his racist fears and fantasies onto a group of people. But the thing is, as Turner matures, he continues not to see native people as full-fledged human beings and continues not to see their societies and their politics as real or meaningful. So when he writes about native people in his most famous essay, *The Significance of the Frontier*, or in other works, most frequently they show up only as a foil for American civilization.

And in fact, at one point he writes about them, a succession of native leaders and confederacies, starting with Pontiac and going forward to Tecumseh to Sitting Bull, all the way through the end of the 19th century. He says, again and again they rallied their troops and fought against the Americans, and all they did was become a whetstone for American civilization.

So what we can say about Turner then is he's not interested in native people as people, he's not interested in native societies as societies, he's interested in something called American society, American civilization. And that civilization can only come into being by struggling against a savage frontier, and that savage frontier is composed in part of native people. But they have no future in his vision of America, in the vision of the United States, they only exist in the past. Or as the Ojibwa historian Gene O'Brien puts it, Indians can never be modern.

And Turner didn't see Ho-Chunks and Pottawatomie and Lakotas, he saw, quote, Indians, people of the past, a race rather than nations, and a race that was doomed to disappearance or insignificance, rather than, as we now understand, distinct, independent, sovereign nations doing their best to persist and to maintain a degree of autonomy, integrity, and sovereignty in the face of American conquest. But that was invisible to Turner.

Yeah, I would say becoming the Frederick Jackson Turner professor would be problematic for you.

Not just for me, you know, it's not something we're going to have to, especially for me, but we're going to have to do something about this.

Going back to the post-Civil War era, how much did the presence and the future of Native peoples confuse and even befuddle the U.S. Congress when it took up the Civil

Rights Bill in 1866 and then the 14th Amendment? They really don't know what, Congress really doesn't know what to do with Native people.

And in fact, when the Civil Rights Bill comes up in 1866, it's in kind of an emergency moment. You know, the Civil War is over, slavery has been abolished, but Andrew Johnson has allowed former Confederates and plantation owners to return to governing their states on a white-only basis in the South. And those new state legislatures in the post-Civil War South are passing all of these laws that essentially turn the idea of African American freedom into a charade. It restricts them from moving freely, from owning property, from being anything other than low-wage farm laborers.

And Congress can't let that happen. And so it, for the very first time, creates this category of national citizenship and endows national citizens with certain rights that will undermine those Black codes in the South and grant formerly enslaved African Americans all the rights of other Americans.

To do that, they need a definition of citizenship that incorporates all of those former slaves as well as free Black people in its orbit. But when they come up with a definition, all persons born in the United States are citizens of the United States and of the states in which they reside. The first question is, wait, do you mean Indians too? Oh, hmm, okay. How do we create a definition of national citizenship that says all persons born but that excludes Native people? That's not an immediately obvious thing, right? Because the United States claims all of that territory. And if Native people are born in that territory, then aren't they American citizens? Well, that's not our intention. So how do we separate them out? Okay, all persons born or naturalized except Indians not taxed. Taxing is thought to be a proxy for real estate ownership, and real estate ownership is thought to be a sign of being enmeshed in American society. And so Native people who are paying taxes can be understood to be sufficiently enmeshed in the U.S. that, yeah, it's safe to make them citizens. But the rest of them, Indians not taxed, meaning Indians still under tribal government, are not incorporated as citizens.

So they think about this immediately and think they've solved the problem. But then they realize that they've got an even bigger problem, which is that nobody really understands the taxing power and its effect on citizenship. And if you literally say that if Native people are taxed, that they become citizens, then a state could decide to tax or not tax its Native residents and thereby make them or not make them into U.S. citizens. And the whole point of the Civil Rights Act and later the 14th Amendment is to establish federal supremacy over citizenship so that the states can't determine who is and is not a citizen. And so you can't let the states decide that through the taxing power. So you need to come up with another formulation.

So the 14th Amendment Citizenship Clause abandons that Indians not taxed framework in favor of subject to the jurisdiction, which is a little more capacious, which talks about the United States and its jurisdiction. But again, the problem there immediately emerges. Doesn't the United States really claim jurisdiction over most of what's now the lower 48?

Doesn't it assert that it in fact owns or will soon own all of that? And doesn't that amount to a claim of jurisdiction? And therefore, haven't you again made citizens out of all the Native people in all that territory? There are some senators who really think that that's what they've done in the 14th Amendment.

And in fact, a couple of years after enacting the 14th Amendment, after it's ratified and becomes part of the Constitution, a senator from a Western state says, hey, wait a minute. Doesn't the 14th Amendment make citizens out of all the Indians? And the senators aren't even sure. They have to panel a committee to go investigate the question and find out if they accidentally made all Native people into citizens. They decide that they didn't, but it's not clear.

I'm afraid that is all the time we have today with Professor Stephen Kantrowitz. Again, the book is *Citizens of a Stolen Land, a Ho-Chunk History of the 19th Century United States*. But we were only halfway into our conversation, and I'll be back the last Monday in November with part two. Madison Book Beat will continue the indigenous theme next week when Andrew Thomas welcomes Diné poet Taseem Atsidi to discuss her new collection from the UW Press *At Risk*.

On behalf of News and Public Affairs Director Chali Pittman, the aforementioned Andrew Thomas on the board, and all of us here at Madison Book Beat, I'm Stu Levitan. Thank you for joining us. Now as Ben Sidran plays us out with a little bit of *Little Sherry*, please stay tuned for Alex Walding White and *All Around Jazz*. You're listening to WORT, 89.9 FM, Teejop. Listener sponsored community radio.