

The Frontier of Indian Law Reform: How *Cobell v. Salazar* Opened the Door to US Government Accountability

Coulee Fox

Junior Division

Word Count: 2498

Process Paper: 480

Cobell v. Salazar is one of, if not the most, monumental court case in Native American history. Elouise Cobell, the frontier-expanding lead plaintiff in *Cobell v. Salazar*, brought to light the government's mismanagement of Indian Trust Funds and money accounts; she wanted to find a way to correct the wrongdoings - and she did. From 1996 to 2009, Elouise Cobell challenged the Department of the Interior (DOI), on behalf of over 300,000 Native Americans. She alleged that the government incorrectly accounted for the profits from assets dating back to the Dawes Act held in Indian trust. The accounts are managed by the DOI, with the profits belonging to individual tribal allottees. Given that the accounts' original records were lost, people believe the settlement to be too little, justifiably. Following the court's ruling, the funds were immediately distributed to hundreds of tribes and money accounts, a promising new frontier for Indian Law, where the government is held accountable for its failures to uphold its contracts with tribes.

In 1887, Congress passed the Dawes Act, also known as the General Allotment Act, which sparked *Cobell v. Salazar*. The act allowed the Federal Government to allocate tribal lands, with the goal to assimilate Native Americans into white society, urging them to pursue agriculture and farming. Allotments of land were assigned to individuals and families on a tribal roll, and those who accepted were given United States (US) citizenship as enticement, since Indians would not be granted US citizenship or the right to vote until 1924.¹ The allotments included the majority of tribal reserves, but they were minuscule in comparison to the area that the tribes had previously held. (*See Appendix 1*)

A number of tribes were exempt from the law, according to Section 8 of the Dawes Act.² However, this did not last for long. In 1893, President Grover Cleveland arranged the Dawes

¹ National Archives and Records Administration. (n.d.). National Archives and Records Administration. Retrieved March 12, 2023, from <https://www.archives.gov/historical-docs/todays-doc/?dod-date=602>

² The tribes included: Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Osage, Miamies, Peorias, and Sacs and Foxes.

“Dawes Act (1887).” *National Archives*, 9 Sept. 2021, www.archives.gov/milestone-documents/dawes-act#:~:text=Approved%20on%20February%208%2C%201887,than%20as%20members%20of%20tribes.. Accessed 19 Jan. 2023.

commission to negotiate with the Five Civilized Tribes: Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles.³ The result of these negotiations was the creation of several laws that gave the Five Civilized Tribes' members a piece of the common property in exchange for the abolition of their tribal governments and acceptance of state and federal laws. Members had to enlist with the Office of Indian Affairs in order to acquire the allotted land (later renamed the Bureau of Indian Affairs [BIA]). The tribal members' name was added to the "Final Rolls" once they had registered.⁴ (*See Appendix 2*) The land used for allotments was often unsuitable for farming, with prime farmland being used for white homesteading instead.

Several issues arose instantaneously. Prior to the Dawes Act, Native Americans owned and controlled close to 150 million acres of land, a majority of which was lost due to the allocations.⁵ The main issue was scant payments from the government, as they thought allottees were incapable of having control over their own money accounts, so the DOI had control over them in "trust."⁶ The problem, however, was the fact that the department sent out meager payments, with individuals being sent as little as four cents a year for their allotments.⁷ In addition to that, once children received their allotments, they often would not know how to farm, as they were kept in boarding schools, which did not teach how to farm, even though the government's goal was to assimilate Native Americans into "white culture."⁸ The pioneering of the act should not be remembered in history for its achievements, but instead for its devastation.

³ The Five Civilized tribes were called what they were because people thought they were the closest to being white.
Ibid.

⁴ *Ibid.*

⁵ "The Dawes Act (U.S. National Park Service)." *Nps.gov*, 2021, [www.nps.gov/articles/000/dawes-act.htm#:~:text=In%20addition%20to%20scant%20payment,land%20from%20the%20Dawes%20Act](https://www.nps.gov/articles/000/dawes-act.htm#:~:text=In%20addition%20to%20scant%20payment,land%20from%20the%20Dawes%20Act.). Accessed 19 Jan. 2023.

⁶ Cobb, Daniel. "Elouise Pepion Cobell and Individual Indian Money Accounts, by Anni Öberg – Something Definitive." *Unc.edu*, 2017, danielmcobb.web.unc.edu/elouise-pepion-cobell-and-individual-indian-money-accounts-by-anni-oberg/. Accessed 20 Jan. 2023.

⁷ Ndn. "Dawes Act." *Native Daily Network*, 28 Jan. 2023, https://natedailynetwork.org/2022/02/02/dawes/?utm_source=rss&utm_medium=rss&utm_campaign=dawes.

⁸ Native American culture was considered less than white culture, and the government's mindset was "Kill the savage, keep the man."
"The Dawes Act (U.S. National Park Service)." *Nps.gov*, 2021, [www.nps.gov/articles/000/dawes-act.htm#:~:text=In%20addition%20to%20scant%20payment,land%20from%20the%20Dawes%20Act](https://www.nps.gov/articles/000/dawes-act.htm#:~:text=In%20addition%20to%20scant%20payment,land%20from%20the%20Dawes%20Act.). Accessed 19 Jan. 2023.

The Dawes Act affected countless tribes, and among them is the Blackfeet Tribe. Growing up, Elouise Cobell heard many stories about the BIA, but one in particular stood out: the story of her aunt and uncle. They tried to meet with a BIA agent for money and were ignored for a long period of time, eventually receiving a check.⁹ Unfortunately, the agent’s reluctance to schedule a session with them cost her uncle his life because of extremely overdue medical expenses.¹⁰ Because of this, Cobell decided to look into her own money accounts at eighteen, but was told by BIA agents, “she did not understand what she was looking at, or for.”¹¹

She worked as a clerk intern at the BIA office on the reservation while attending university and witnessed many people being turned away when they came in to ask for money from their Individual Indian Money Trust (IIM Trust) accounts.¹² After she graduated, she became treasurer of the Blackfeet Nation, and while working in the position, she began to look into the complaints of tribal members who were receiving paltry incomes—sometimes only pennies per month—from the leasing of their allotments; it became clear that the system was flawed.¹³ She attended government meetings and tried to issue a hearing, to which she was denied, based upon the claim that she “didn’t understand how to read an account statement.”¹⁴

Eventually, she found records dating back to the Dawes Act. Upwards of 56 million acres of land were held in trust by the DOI, to which the department used for their own benefit.¹⁵ Around 46 million acres are held in trust for tribes, while over ten million acres belong to individuals. The combined proceeds from the sales of resources that the government leased were

⁹ “Biography: Elouise Cobell (“Yellow Bird Woman”).” *Biography: Elouise Cobell (“Yellow Bird Woman”)*, 2023, www.womenshistory.org/education-resources/biographies/elouise-cobell-yellow-bird-woman#:~:text=After%20graduation%2C%20Cobell%20became%20the,government%20meetings%20and%20asking%20questions. Accessed 30 Jan. 2023.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ WHM. “Elouise Pepion Cobell: Banker-Warrior.” *Women’s History Matters*, 23 Sept. 2014, montanawomenshistory.org/elouise-pepion-cobell-banker-warrior/. Accessed 12 Apr. 2023.

¹⁴ *Ibid.*

¹⁵ “History and Culture: Allotment Act - 1887 - American Indian Relief Council Is Now Northern Plains Reservation Aid.” *Nativepartnership.org*, 2023, www.nativepartnership.org/site/PageServer?pagename=airc_hist_allotmentact. Accessed 19 Jan. 2023.

placed in IIM Trust, kept there, invested in common, and ultimately distributed to the IIM Trust's beneficiaries.¹⁶

The government, however, breached the trust obligations that they owed to the individual Indians.¹⁷ Instead of going to the individuals, the collected funds were used by the government to pay off their national debt.¹⁸ Moreover, the DOI destroyed most records of the accounts, including the most important disbursement records - the records dating from 1887 to 1990.¹⁹

The United States owns title to a large portion of Indian tribal territory and land allocated to individual Indians in its capacity as trustee. As a result, the Federal Government receives payments from leases that belong to property owners, for the purpose of distributing the funds to the appropriate owners. The management of Indian funds and assets obtained from these lands and held in trust is the responsibility of the United States under fiduciary obligations.²⁰ However, a number of the trust fund recipients claimed that the DOI misused this money and brought legal action to demand an accurate accounting of these monies, as well as compensation for any justified losses.

Cobell and three other named plaintiffs filed an action in equity in the US District Court for the District of Columbia in 1996, on behalf of all individual Indian trust beneficiaries to compel the government to carry out a complete historical accounting of all IIM Trust funds.²¹ The DOI estimates that there are currently 1.4 million fractionated interests involving 58,00 tracts of land.²² As a result, the department contended that the accounting Cobell was asking for was

¹⁶ Gingold, Dennis, and M Pearl. "Combined Cobell Docs." *Cobellscholar.org.*, 2012
<https://cobellscholar.org/wp-content/uploads/2022/04/Combined-Cobell-Docs-2021.pdf>. Accessed 2 Feb. 2023

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² "- CAN A PROCESS BE DEVELOPED to SETTLE MATTERS RELATING to the INDIAN TRUST FUND LAWSUIT?" *Govinfo.gov*, 2023,
www.govinfo.gov/content/pkg/CHRG-108hhr88177/html/CHRG-108hhr88177.htm. Accessed 17 May 2023.

nearly impossible, forcing them to choose between “what is fair and what is possible.”²³

Regardless, Cobell also wanted the government to correct and restate IIM account balances, to fix faulty trust management systems, and to carry out other important reform steps to ensure responsible trust management.²⁴ In doing so, Cobell ventured into the unexplored frontier of an historic 15-year case.

Cobell v. Salazar was filed in 1996. The primary defendants were Secretaries of the Interior, with the DOI being entrusted with handling the IIM accounts. “And what I think was particularly very smart of Judge Royce Lamberth when we started this case is that he put a protective order on the documents but the documents could not be destroyed. They had to be protected,”²⁵ Cobell revealed. Regardless, they were destroyed by Secretary Bruce Babbitt and Secretary Robert Rubin who actively incinerated documents, despite the order, many times throughout the 15-year case.²⁶

In 1999, three years after the case was established, the District Court for the District of Columbia ruled in favor of the plaintiffs and cited five specific violations that called for potential remedies.

The Secretary of the Interior Has No Written Plan to Gather Missing Data; The Secretary of the Interior Has No Written Plan Addressing the Retention of IIM-Related Trust Documents Necessary to Render an Accounting; The Secretary of the Interior Has No Written Architecture Plan; The Secretary of the Interior Has No Written Plan Addressing the Staffing of Interior's Trust Management Functions; The Secretary of the Treasury Has Breached His Fiduciary Duty to Retain IIM-Related Trust Documents and Has No Remedial Plan to Address This Breach of Duty.²⁷

²³ “The Indian Trust Fund Litigation: An Overview of *Cobell v. Salazar*.” *Everycrsreport.com*, Congressional Research Service, 20 Aug. 2008, www.everycrsreport.com/reports/RL34628.html. Accessed 6 Dec. 2022.

²⁴ *Ibid.*

²⁵ NPR. “Plaintiff in Indian Case on Settlement.” *NPR*, NPR, 8 Dec. 2009, www.npr.org/templates/story/story.php?storyId=121216148. Accessed 20 Jan. 2023.

²⁶ *Ibid.*

²⁷ “*Cobell v. Babbitt*, 91 F. Supp. 2d 1 (D.D.C. 1999).” *Justia Law*, 2023, law.justia.com/cases/federal/district-courts/FSupp/2/91/1/2510835/. Accessed 9 Feb. 2023.

The findings of these violations were considered an early win for the plaintiffs. As a result, The Office of Historical Trust Accounting was established by an order from Representative Eleanor Norton in 2001, a first in Indian history.²⁸

On July 16, 2006, the US Court of Appeals for the District Court of Columbia removed Judge Royce Lamberth from the case, stating he had “lost his objectivity.”²⁹ The US Court of Appeals cited Lamberth’s own words as to why he should be removed from the case, in which he called the department, “a dinosaur -- the morally and culturally oblivious hand-me-down of a disgracefully racist and imperialist government that should have been buried a century ago, the pathetic outpost of the indifference and anglocentrism we thought we had left behind.”³⁰ Lamberth was known to rule with the Cobell Litigation during the lawsuit, and the US Court of Appeals states that he had gone too far.³¹ The government cited he had, “legal errors and unconventional case management.”³²

Congress approved the Cobell settlement, leading to the creation of the Claims Resolution Act in 2010, which former President Obama signed.³³ The Claim Resolution Act, which is also known as the *Cobell v. Salazar* Class Action Settlement, imposes a \$3.4 billion payment from the Federal Government to three particular funds: The Trust Administration Adjustment Fund, The Trust Land Consolidation Fund, and The Indian Education Scholarship

²⁸ “The Office of Historical Trust.” *DOI*, <https://www.doi.gov/sites/doi.gov/files/T-2266.pdf>. Accessed 8 Mar. 2023.

²⁹ “At U.S. Urging, Court Throws Lamberth off Indian Case.” *Washington Post*, The Washington Post, 12 July 2006, www.washingtonpost.com/archive/politics/2006/07/12/at-us-urging-court-throws-lamberth-off-indian-case/72b9f5cd-e668-4d9f-98f9-10d83e5052b7/. Accessed 8 Feb. 2023

³⁰ *Ibid.*

³¹ Seidman, Joel. “Judge Thrown off Decade-Old Indian Trust Case.” *NBC News*, NBC News, 11 July 2006, www.nbcnews.com/id/wbna13816812. Accessed 5 Apr. 2023.

³² Stein, Jonathan. “Contempt from Court: The Blistering Eloquence of Judge Royce C. Lamberth.” *Mother Jones*, Sept. 2005, www.motherjones.com/politics/2005/09/contempt-court-blistering-eloquence-judge-royce-c-lamberth/. Accessed 16 May 2023.

³³ “SSA - POMS: SI 00830.852 - the Claims Resolution Act of 2010 (Cobell v. Salazar) - 08/20/2021.” *Ssa.gov*, 20 Aug. 2021, secure.ssa.gov/poms.nsf/lnx/0500830852#:~:text=On%20December%208%2C%202010%2C%20President,billion%20towards%20three%20specific%20funds. Accessed 12 Apr. 2023.

Holding Fund.³⁴ The scholarship founded by Cobell was funded by the Indian Education Scholarship Holding Fund.

The settlement was a landmark, since Indians had won in the court of law for one of the first times ever, with what's commonly referred to as “the largest class-action lawsuit against the United States in US history.”³⁵ Despite the fact that \$3.4 billion is a significant figure, Cobell expressed doubts as to how the settlement amount was reached. “For example, I would like to know exactly how the settlement amount of \$1.4 billion was arrived at. I would also like to know how the Administration arrived at the figure of \$2 billion for the fractionated land buy-back program, and how and where they plan to spend that money,”³⁶ Elouise Cobell stated in the closing statements of the 15-year case. Along with Cobell’s skepticism, people were outraged with the meager settlement.³⁷

Although the settlement agreement was a landmark in Indian history, many people, including Cobell, believed the settlement was insufficient.

Although we have reached an historical settlement totaling more than \$3.4 billion, there is no doubt this is far less than the full amount to which each individual Indians are entitled. We could prolong our struggle, fight longer, and perhaps one day know down to the penny how much every individual Indian is owed. Perhaps we could even litigate long enough to increase the settlement amount. But we are compelled to settle now by the sobering reality that our class grows smaller each year, each month and every day as our elders and infirm class members die, forever preventing them from receiving which is theirs.³⁸

After Cobell’s death in 2011, her documentarian Melinda Janko gave voice to her opinions on the settlement, saying, “And to think that she did not see the justice served, and this is still in the

³⁴ *Ibid.*

³⁵ Gilio-Whitaker, D. (2017, March 18). *How the Cobell case impacted Indian Land Policies*. ThoughtCo. Retrieved March 13, 2023, from <https://www.thoughtco.com/history-behind-the-cobell-case-4082499>

³⁶ COBELL v. SALAZAR SETTLEMENT AGREEMENT.” *Govinfo.gov*, 2019, www.govinfo.gov/content/pkg/CHRG-111shrg57482/html/CHRG-111shrg57482.htm. Accessed 18 Dec. 2022.

³⁷ Warren, James. “A Victory for Native Americans?” *The Atlantic*, theatlantic, 7 June 2010, www.theatlantic.com/national/archive/2010/06/a-victory-for-native-americans/57769/. Accessed 13 Apr. 2023.

³⁸ *Ibid.*

appeals process—it just breaks my heart.”³⁹ Janko had a close relationship with Cobell, and she was unhappy about the egregious settlement, and the fact Cobell never saw the agreement finalized, a frontier she never saw crossed. Cobell did not view the settlement as a panacea, rather as an important first step.⁴⁰

The Land Buy-Back program was established in December of 2012, a product of the land consolidation fund, and ran for 10 years, ending November 24, 2022. The program had moderate success, as land-owners willing to sell back the land were a minority.⁴¹ The goal of this program was the same as the settlement agreement and, for purposes that benefited the reservation community and Tribal members, consolidated interests were promptly returned to Tribal trust ownership, becoming some of the first steps to rectify the relationship between the government and Native Americans.

The average buy-back program acceptance rate was only 32% out of the 97 transactions and attempts that were documented, which is relatively low when considering that Native Americans lost over 90 million acres of land as a result of the Dawes Act.⁴² In the end, the Land Buy-Back Program only recovered two million acres of land, or two percent of the lost area.⁴³ With the purchase of the two million acres of property, nearly all of the funds from the *Cobell v. Salazar* settlement were spent to repurchase a pitiful two percent of the Dawes Act recorded land. The Federal Government ventured into a frontier they have never before set foot in for accountability, yet they delivered insufficient reimbursements.

Along with the Land Buy-Back Program, The Cobell Scholarship was founded by

³⁹ “Cobell v. Salazar Class Action Website.” *Indiantrust.com*, 2018, www.indiantrust.com/article/movie.html. Accessed 7 Mar. 2023.

⁴⁰ Gingold, Dennis, and M Pearl. “Combined Cobell Docs.” *Cobellscholar.org.*, 2012 <https://cobellscholar.org/wp-content/uploads/2022/04/Combined-Cobell-Docs-2021.pdf>. Accessed 2 Feb. 2023

⁴¹ “Land Buy-Back Program for Tribal Nations.” *Doi.gov*, 31 May 2015, www.doi.gov/buybackprogram. Accessed 7 Feb. 2023.

⁴² *Ibid.*

⁴³ *Ibid.*

Cobell.⁴⁴ The Cobell Scholarship’s mission is “Providing elevated opportunities for high achieving, community-involved Native college students with leadership experience through empowering them with an impactful scholarship experience designed to support their success in higher education,”⁴⁵ The scholarship is one of the most prestigious scholarships for Native American students, as well as one of the only scholarships meant solely for Native Americans.

After *Cobell v. Salazar* was settled, the government spent over \$5 billion to repair and safeguard compromised trust management systems that previously permitted unlawful access to IIM Trust Data and assets since the start of the dispute.⁴⁶ After US District Judge Lamberth found Treasury Secretary Rubin, Interior Secretary Babbitt, and Assistant Secretary Gover in contempt of court in the Cobell Litigation for actively destroying records, the government's program began in earnest.⁴⁷

Cobell v. Salazar is called the largest class action lawsuit ever, with upwards of 500,000 plaintiffs, a frontier not only in Indian history but US history.⁴⁸ This opened the door to right the wrongs of the Dawes Act, albeit lacking in its mechanisms. It also led to the government spending billions of dollars to fix broken trust systems exposed by the case, something that almost never occurs. Since their inception, the court cases that comprise Indian law have progressively chipped away at tribal sovereignty. *Cobell v. Salazar* is arguably one of the watershed cases that have strengthened tribal sovereignty, or, at the very least, acknowledged it. The case compelled the US government to take accountability for the wrongs of the Dawes Act

⁴⁴ “Cobell Scholarship – Native American Scholarship.” *Cobellscholar.org*, 2023, cobellscholar.org/. Accessed 8 Feb. 2023.

⁴⁵ *Ibid.*

⁴⁶ Gingold, Dennis, and M Pearl. “Combined Cobell Docs.” *Cobellscholar.org.*, 2012
<https://cobellscholar.org/wp-content/uploads/2022/04/Combined-Cobell-Docs-2021.pdf>. Accessed 2 Feb. 2023

⁴⁷ *Ibid.*

⁴⁸ Gilio-Whitaker, D. (2017, March 18). *How the Cobell case impacted Indian Land Policies*. ThoughtCo. Retrieved March 13, 2023, from <https://www.thoughtco.com/history-behind-the-cobell-case-4082499>

and it brought forth opportunities to Native Americans that otherwise would not have been possible, such as the Cobell Scholarship, one of the few Native-oriented scholarships. But it could have accomplished so much more.

Appendix

Appendix 1



The image displays an allotment map for the state of Oklahoma and its different reservations.

Referring to the map above, it really puts into perspective how tiny the allotments were in comparison to the land American Indians controlled.

“Maps of Indian Territory, the Dawes Act, and Will Rogers’ Enrollment Case File.” *National Archives*, 15 Aug. 2016, www.archives.gov/education/lessons/fed-indian-policy.

Accessed 10 Feb. 2023.

Appendix

Appendix 2

INDEX TO
FINAL ROLL CHOCTAWS BY BLOOD

Name	Roll No.	Name	Roll No.
Aaron, Sallie	1239	Adams, Arabella F.	13796
Aaron, Jim	3420	Adams, Nanava M.	13797
Aaron, Johnson	3451	Adams, Jincy	14119
Aaron, Sarah	3452	Adams, John S.	15332
Aaron, Moses	3453	Aduddell, Carl	12499
Aaron, Annie	3454	Agent, Annie G.	14464
Aaron, Selma	3592	Agent, Ruby G.	14465
Aaron, Nebus	3522	Agent, Charles C.	14466
Aaron, Austin	3537	Agee, Florence	15275
Aaron, Elsie	3538	Agee, Obeera	15276
Aaron, William	3677	Agee, Zora	15277
Aaron, Lucy	3678	Agee, Hester Lee	15278
Aaron, Elsie	3679	Agee, Pearl	15279
Aaron, Denison	3680	Ahekatubby, John	1544
Aaron, Bekinsie	3681	Ahekatubby, Simeon	1545
Aaron, Louina	3682	Ahekatubby, Emma	4556
Aaron, Mary	3683	Ahekatubby, Daniel	4557
Aaron, Alex	3684	Ahayotubbe, Leson	3540
Aaron, Lcana	3685	Ahayotubbe, Betsy	3541
Aaron, Selea	3686	Ahotubbi	9926
Aaron, John	3714	Ahotubbi, Winnie	9927
Aaron, Sealy	3715	Airington, Jackson	550
Aaron, Tama	3716	Airington, Mary Eliz- beth	551
Aaron, Emma	12107	Airington, Rosa Valen- tine	552
Aaron, Frances	14652	Airington, Lilly Ann	553
Abels, Henrietta E.	4477	Airington, Andrew Jack- son	554
Abels, Margaret L.	4478	Airington, Arthur Garvin	555
Abels, Edward M.	4479	Airington, John L.	556
Abels, Lucile Belvin	4480	Airington, Jesse	557
Able, Eita M.	15458	Airington, Charlie Jack- son	558
Able, Margie	15459	Airington, Monroe	559
Able, Enos O.	15460	Airington, Luther	560
Able, Amos	15461	Airington, Benjamin F.	9998
Achukmatema	9989	Airington, William	9999
Adkins, Tobitha	384	Airington, James	10000
Adkins, Hugh L.	385	Airington, Walter	10001
Adkins, Lena	386	Airington, Lennie	10002
Adkins, Sarah Jane	387	Airington, Levi	10155
Adkins, Louis Floyd	388	Airington, Jesse E.	10156
Adkins, Stella	389	Airington, Eddie A.	10157
Adkins, Wm. McKinley	390	Airington, Aldine V.	10158
Adkins, Vivian	391	Airington, Ida A.	10159
Adkins, Bettie	392	Airington, Minnie E.	10160
Ady, Marie Jane	675	Airington, Andie E.	10161
Adams, Margaret	7888	Airington, Rufus	10266
Adams, C. H.	7889	Airington, Fears	10267
Adams, James	8505	Airington, Fred J.	10268
Adams, Reuben	8507	Airington, Doors	10269
Adams, Louina	8508	Airington, William Flor- ence	10270
Adams, Sellin	8509	Airington, William	11029
Adams, Jonas	8510	Airington, Leroy	11030
Adams, Rhoda	8511	Airington, Noah	13575
Adams, Davis	8512	Airington, Willie Polce	13576
Adams, Abel	8706	Airington, Willie Rap	13576
Adams, James	8811	Ainsworth, Martha E.	7323
Adams, Sallie	8812	Ainsworth, James C.	7324
Adams, Sarah	8834	Ainsworth, Thomas D.	7791
Adams, Willy	8882	Ainsworth, Thomas G.	7792
Adams, Thomas	8909		
Adams, Wilburn	9134		
Adams, Melvina	9477		
Adams, Katie E.	11052		
Adams, Willie	11072		
Adams, Anna	11075		
Adams, Edward B.	12166		

The image above displays an example of the Final Rolls of Choctaws by blood. Referring to the image, it displays how much people the Dawes Act affected, with this being just one page.

“Final Rolls Index.” *National Archives*, 15 Aug. 2016,

www.archives.gov/research/native-americans/rolls/final-rolls.html. Accessed 18 Apr.

2023.

Annotated Bibliography

Primary Sources:

“- CAN A PROCESS BE DEVELOPED to SETTLE MATTERS RELATING to the INDIAN TRUST FUND LAWSUIT?” *Govinfo.gov*, 2023, www.govinfo.gov/content/pkg/CHRG-108hrg88177/html/CHRG-108hrg88177.htm. Accessed 17 May 2023.

This source provided me with insight on members of the Department of the Interior, and their views on historical accounting. I use it in my paper to cite information regarding fractionated interests.

“Cobell v. Babbitt, 91 F. Supp. 2d 1 (D.D.C. 1999).” *Justia Law*, 2023, law.justia.com/cases/federal/district-courts/FSupp2/91/1/2510835/. Accessed 9 Feb. 2023.

This source provided me with an early win for Cobell and other plaintiffs in *Cobell v. Salazar*. It is used in my paper as a quote to expand on my argument, and to expose some of the actions of the Department of the Interior representatives.

“- COBELL v. SALAZAR SETTLEMENT AGREEMENT.” *Govinfo.gov*, 2019, www.govinfo.gov/content/pkg/CHRG-111shrg57482/html/CHRG-111shrg57482.htm. Accessed 18 Dec. 2022.

This source provided me with insight on the settlement agreement for *Cobell v. Salazar* and the specifics of it. This source is used as a quote on Elouise Cobell's skepticism towards the settlement amount.

Dartmouth. “Elouise Cobell (Doctor of Humane Letters)- Dartmouth 2011 Honorary Degree Recipient.” *YouTube*, 15 June 2011, www.youtube.com/watch?v=PsNau0lyC4c. Accessed 24 Jan. 2023.

This source gave me a small synopsis of the case, which was extremely helpful as reading through hundreds of transcripts to find information on a 15 year case. I used this source in my paper as background knowledge, which did help me.

“Final Rolls Index.” *National Archives*, 15 Aug. 2016, www.archives.gov/research/native-americans/rolls/final-rolls.html. Accessed 18 Apr. 2023.

This source gave me insight on what the Final Rolls looked like, and now resides in my paper as an appendix to further show the scale of the Dawes Act.

Gingold, Dennis, and M Pearl. "Combined Cobell Docs." *Cobellscholar.org.*, 2012
<https://cobellscholar.org/wp-content/uploads/2022/04/Combined-Cobell-Docs-2021.pdf>.
Accessed 2 Feb. 2023

This source taught me a bit on the specifics of the settlement, as well as providing me with insight on the background of the case, as well as what the government was doing behind the scenes. It resides in the form of multiple citations, and it's in the primary source section because the authors were attorneys working for the Cobell Litigation.

"H.R.2996 - 111th Congress (2009-2010): Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010." *Congress.gov*, 2023,
www.congress.gov/bill/111th-congress/house-bill/2996. Accessed 10 Apr. 2023.

This source provided me with information on the Appropriations Act of 2010, which was a result of Cobell v. Salazar. I didn't use this source directly in paper as in citing, but instead used it to emphasize the scale of the monumental case.

"H.R.4783 - 111th Congress (2009-2010): Claims Resolution Act of 2010." *Congress.gov*, 2023,
www.congress.gov/bill/111th-congress/house-bill/4783. Accessed 10 Apr. 2023.

This source gave me the specifics of the Claims Resolution Act in greater detail than the other Claims Resolution Act. I used it hand in hand with the aforementioned sources to further my understanding of the settlement, which is synonymous with the Claims Resolution Act.

NPR. "Plaintiff in Indian Case on Settlement." *NPR*, NPR, 8 Dec. 2009,
www.npr.org/templates/story/story.php?storyId=121216148. Accessed 20 Jan. 2023.

This source taught me the shady things Representatives Babbit and Robin did throughout the case, which was destroying documents dating back to the Dawes Act, despite a court order. I used this source to expand on my thesis, and I used a quote from this source.

"TESTIMONY OF ELOUISE C. COBELL, LEAD PLAINTIFF IN COBELL v. KEMPTHORNE COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE OVERSIGHT HEARING ON TRUST FUND LITIGATION, COBELL v. KEMPTHORNE" *Indian.senate.gov*, 27 March. 2009,
<https://www.indian.senate.gov/sites/default/files/upload/files/Cobell032907.pdf>.
Accessed 23 Jan. 2023

This source provided me with insight on the case settlement, its processes, and Cobell's skepticism on the settlement amount. This source is being used as background knowledge, and I relied on it during the writing process.

"Text - H.R.4322 - 109th Congress (2005-2006): Indian Trust Reform Act of 2005." *Congress.gov*, 2023, www.congress.gov/bill/109th-congress/house-bill/4322/text.
Accessed 11 Apr. 2023.

This source provided extensive information on the Trust Reform Act of 2005, and contains the official transcript of the act. I don't cite this source directly, but I instead used it as a way to deepen my understanding and knowledge of how extensive and influential *Cobell v. Salazar* was and still is.

“The Office of Historical Trust.” *DOI*, <https://www.doi.gov/sites/doi.gov/files/T-2266.pdf>. Accessed 8 Mar. 2023.

This source taught me about the establishment of the Office of Historical Trust and its purpose. I used it to expand on the “potential remedies,” as it was a direct result of the violations.

“Trust Reform.” *Doi.gov*, 4 Jan. 2016, www.doi.gov/ocl/trust-reform. Accessed 11 Apr. 2023.

This source provided me with more insight into how the government took accountability and is trying to minimize fractionation. It’s not used directly in my paper, but instead to deepen my knowledge on the act, and the extensivity of *Cobell v. Salazar*.

“U.S. In \$3B Settlement with American Indians.” *NPR*, 8 Dec. 2009, www.npr.org/templates/story/story.php?storyId=121216558. Accessed 20 Jan. 2023.

This source taught me the origin of how Cobell v. Salazar came to be, which was the Dawes Act. It also gave a little synopsis on the Dawes Act, which helped.

Seidman, Joel. “Judge Thrown off Decade-Old Indian Trust Case.” *NBC News*, NBC News, 11 July 2006, www.nbcnews.com/id/wbna13816812. Accessed 5 Apr. 2023.

This source provided me with information on why Judge Lamberth was removed from the case, and why. I used this article to cite one of the reasons he was thrown off, which was that he had “gone too far.”

Justice.gov. “Class-Action Settlement Agreement.” *Justice.gov*, Justice.gov, 7, Dec. 2009. https://www.justice.gov/archive/civil/cases/cobell/docs/pdf/settlement_12082009.pdf. Accessed 8 Feb. 2023

This source gave me enormous amounts of extremely detailed information about the settlement agreement, and I used it quite often when researching how the settlement was used.

“Land Buy-Back Program for Tribal Nations.” *Doi.gov*, 31 May 2015, www.doi.gov/buybackprogram. Accessed 7 Feb. 2023.

This source provided me with detailed information on the transactions of the Land Buy-Back program, a result of the case settlement. The information also taught me how mediocre the success of the program was.

“At U.S. Urging, Court Throws Lamberth off Indian Case.” *Washington Post*, The Washington Post, 12 July 2006,

www.washingtonpost.com/archive/politics/2006/07/12/at-us-urging-court-throws-lambert-h-off-indian-case/72b9f5cd-e668-4d9f-98f9-10d83e5052b7/. Accessed 8 Feb. 2023

This source provided me with even more insight as to why Judge Lamberth was removed from the case. It resides in my paper in the form of a quote from Lamberth.

Secondary Sources:

“Biography: Elouise Cobell (“Yellow Bird Woman”).” *Biography: Elouise Cobell (“Yellow Bird Woman”)*, 2023,

www.womenshistory.org/education-resources/biographies/elouise-cobell-yellow-bird-woman. Accessed 23 Jan. 2023.

This source taught me on why Elouise Cobell filed the lawsuit, and it also provided me with information on how the misuse of money accounts affected individuals.

Campbell, Brooke. *American Indian Law Review American Indian Law Review Cobell Settlement Finalized after Years of Litigation: Victory at Cobell Settlement Finalized after Years of Litigation: Victory at Last? Last? NOTE COBELL SETTLEMENT FINALIZED after YEARS of LITIGATION: VICTORY at LAST?* Vol. 37, p. 2013,

digitalcommons.law.ou.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1047&context=airl.

This source provided me information on what the government thought about *Cobell v. Salazar*, and how they viewed it regarding money. I didn’t use it directly in my paper, but more so to deepen my understanding and knowledge of multiple perspectives.

Cobb, Daniel. “Elouise Pepion Cobell and Individual Indian Money Accounts, by Anni Öberg – Something Definitive.” *Unc.edu*, 2017,

danielmcobb.web.unc.edu/elouise-pepion-cobell-and-individual-indian-money-accounts-by-anni-oberg/. Accessed 20 Jan. 2023.

This source provided me with insight on the Dawes act, and how Elouise Cobell was disrespected on numerous occasions. It also provided me with a synopsis of the case.

“Cobell Education Scholarship Fund.” *Doi.gov*, July 2015,

www.doi.gov/buybackprogram/about/scholarship-fund. Accessed 31 Jan. 2023.

This source taught me a little bit about the scholarship Elouise Cobell founded, The Cobell scholarship and how it works.

“Cobell Scholarship – Native American Scholarship, American Indian Scholarship, “Cobell Scholarship – Native American Scholarship.” *Cobellscholar.org*, 2023,

cobellscholar.org/. Accessed 31 Jan. 2023.

This source provided me with extremely detailed information on not just The Cobell Scholarship, but also an enormous amount of background information on *Cobell v. Salazar*.

“Dawes Act (1887).” *National Archives*, 9 Sept. 2021,

www.archives.gov/milestone-documents/dawes-act#:~:text=Approved%20on%20Februar

y%208%2C%201887,than%20as%20members%20of%20tribes.. Accessed 19 Jan. 2023.
This source taught me about the Dawes Act, and how it affected tribes and their tribal land. It wasn't extremely detailed, but it was useful.

Gilio-Whitaker, D. (2017, March 18). *How the Cobell case impacted Indian Land Policies*.

ThoughtCo. Retrieved March 13, 2023, from

<https://www.thoughtco.com/history-behind-the-cobell-case-4082499>

This source taught me about Indian law and policies, and it was extremely detailed, being my only source to cover Indian law. This source resides in the form of a quote, to expand on how *Cobell v. Salazar* was a landmark case, and a frontier crossed to pave the way for accountability.

“History and Culture: Allotment Act - 1887 - American Indian Relief Council Is Now Northern Plains Reservation Aid.” *Nativepartnership.org*, 2023,

www.nativepartnership.org/site/PageServer?pagename=airc_hist_allotmentact. Accessed 19 Jan. 2023.

This taught me about the Dawes act, and it was extremely helpful as it provided me with information I didn't find elsewhere. It was also very detailed, and it's one of my very few Dawes Act sources.

“Maps of Indian Territory, the Dawes Act, and Will Rogers' Enrollment Case File.” *National Archives*, 15 Aug. 2016, www.archives.gov/education/lessons/fed-indian-policy.

Accessed 10 Feb. 2023.

This source showed me just how little the allotments were compared to the greater land mass of Indian Country. I used this source to expand on an idea in my paper, and it eventually got used as an appendix.

National Archives and Records Administration. (n.d.). National Archives and Records Administration. Retrieved March 12, 2023, from

<https://www.archives.gov/historical-docs/todays-doc/?dod-date=602>

This source provided information on how Indians didn't get US recognition as being citizens until 1924. I used this source to expand on how the Dawes Act persuaded Indians, and it can be perceived as a primary source with some of its information.

Ndn. “Dawes Act.” *Native Daily Network*, 28 Jan. 2023,

https://natedailynetwork.org/2022/02/02/dawes/?utm_source=rss&utm_medium=rss&utm_campaign=dawes.

This source provided me with a basic synopsis of the Dawes Act, and it acted as a gateway to another source I used in my paper. It resides in my paper as a citation, and I used it to emphasize how meager the payments were from the government.

Staff, ICT. “Elouise Cobell Remembered by Many.” *ICT*, ICT, 19 Oct. 2011, indiancountrytoday.com/archive/elouise-cobell-remembered-by-many. Accessed 2 Dec. 2022.

This source taught me how Elouise Cobell worked with people such as Ken Salazar throughout the 15 year case, and their views and opinions on her. It isn’t directly cited in my paper, but I used it to deepen my understanding of her relationship with the case.

Stein, Jonathan. “Contempt from Court: The Blistering Eloquence of Judge Royce C. Lamberth.” *Mother Jones*, Sept. 2005, www.motherjones.com/politics/2005/09/contempt-court-blistering-eloquence-judge-royce-c-lamberth/. Accessed 16 May 2023.

This source provided me with more information as to why Judge Lamberth was removed from the case. It helped me understand more of his quote “antics.” It currently resides as a quote in my paper.

“SSA - POMS: SI 00830.852 - the Claims Resolution Act of 2010 (Cobell v. Salazar) - 08/20/2021.” *Ssa.gov*, 20 Aug. 2021, secure.ssa.gov/poms.nsf/lxx/0500830852#:~:text=On%20December%208%2C%202010%2C%20President,billion%20towards%20three%20specific%20funds. Accessed 12 Apr. 2023.

This source provided extensive information on the Claims Resolution Act of 2010, and the specifics of it, to an extent. I used it in my paper once, to cite that former President Obama signed on it.

“The Dawes Act (U.S. National Park Service).” *Nps.gov*, 2021, www.nps.gov/articles/000/dawes-act.htm#:~:text=In%20addition%20to%20scant%20payment,land%20from%20the%20Dawes%20Act. Accessed 19 Jan. 2023.

This source was extremely helpful, having some of the most detailed information on the Dawes Act, and I used it multiple times in my research and writing process.

“The Indian Trust Fund Litigation: An Overview of Cobell v. Salazar.” *Everycrsreport.com*, Congressional Research Service, 20 Aug. 2008, www.everycrsreport.com/reports/RL34628.html. Accessed 6 Dec. 2022.

This source taught me about *Cobell v. Salazar*, and it provided extremely detailed, useful information. I used it many times throughout the writing process.

WHM. “Elouise Pepion Cobell: Banker-Warrior.” *Women’s History Matters*, 23 Sept. 2014, montanawomenshistory.org/elouise-pepion-cobell-banker-warrior/. Accessed 12 Apr. 2023.

This source gave me insight on why Cobell started *Cobell v. Salazar*, and provided a biography of her. I used it in the form of a citation, and I used it to explain more on why she decided to file an action in equity.

Warren, James. "A Victory for Native Americans?" *The Atlantic*, theatlantic, 7 June 2010, www.theatlantic.com/national/archive/2010/06/a-victory-for-native-americans/57769/. Accessed 13 Apr. 2023.

This source provided me with insight into how people felt about the settlement amount, and how they were outraged. I use this source in my paper to cite that people were outraged.

Process Paper

I chose the topic on Cobell v. Salazar because it affected my family and tribe, since my parents got money from the case-settlement, as well as anyone over the age of 18 after the case. My mom suggested I look into this landmark case when she heard I was struggling to find a powerful National History Day topic; I was hooked immediately. She also told me how my aunt worked for the Cobell Scholarship, the scholarship created with the settlement fund, and the strong connection to this case and my own family gave me further reason to research the subject further.

For this year's contest, I conducted my research online through online sources. I got many secondary sources, and not as many primary sources, but the primary sources I do have are extremely long, since they consist of court documents, transaction records, and first-hand accounts. . My secondary sources are not as tedious to read, but they are filled with complex information regarding the case. The legal discourse stressed me out while researching and writing. It was also difficult to find information that I knew existed, since there are hundreds of court documents regarding the case.

I wrote my paper by myself, but I got help from my teachers and friends. I had help with how to frame footnotes inside my paper, as well as use appendixes. My family was instrumental in my writing process, as they are directly connected to the case. I used my friends to read over my drafts and make sure everything looked good, as well as let them edit my paper a bit, which I also let my social studies teacher do, as well as the Gifted & Talented teacher. I'm very thankful since I probably would not have incorporated this year's theme into my paper if I hadn't gotten

help. I used my family to make sure that my historical content was accurate, as they're very well versed in the case.

My historical argument is that *Cobell v. Salazar* led to the government taking accountability, becoming one of the first steps to try and rectify the government's and tribes' relationship.

Regarding the case, Elouise Cobell won, but did she really? Since the Land Buy-Back program only recovered around two percent of the lost land, is that really a victory?

Cobell v. Salazar was a historical frontier in multiple ways. It was one of, if not the largest class action lawsuit, and the largest lawsuit in Indian history. And for the first time in US history, Secretaries of the Interior were held in contempt of the court for actively destroying documents. The settlement was also a frontier, with the largest amount of money Native Americans ever received from the government. The case affected my family directly, and it impacts my life and my family today. And it will continue to do so for generations to come.