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Book Review: Broken Landscape: Indians, Indian Tribes, and the Constitution

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FRANK POMMERSHEIM. *Broken Landscape: Indians, Indian Tribes, and the Constitution*. New York: Oxford University Press, 2009. 424 pp. \$35.00 (cloth).

Professor Frank Pommersheim's new book eloquently explains how America's Indian peoples became legally and politically enveloped in their present state of dependency on the continued good will of the federal government. He reliably guides his readers through those early U.S. Supreme Court decisions that—based on their expedient adaptation of the specious, and arguably racist, doctrine of “discovery”—subjected the Indian peoples to the overriding sovereignty of the United States.

But his book, aside from his astute analysis of Indian legal history, is distinguished by the tantalizing question he raises in his introduction: can today's Indian peoples somehow escape their federally-imposed dependency so as to become truly self-determining? He answers that question with a resounding “yes.” Pommersheim's proposed escape route for the Indian peoples is both bold and audacious. He contends (p. 6) that, through his proposed program of “constitutional reform and amendment,” Indian sovereignty will flourish anew because a “new constitutional mooring [of the Indian peoples' inherent and treaty-reserved rights will] constrai[n] excessive federal (and state) authority in Indian affairs, while guaranteeing a meaningful and enduring tribal sovereignty.” He concludes (p. 7) that, absent the success of his proposed program of reform, the Indian peoples' contemporary self-help efforts to achieve self-determination are “unlikely to flourish in the dependent and depleted soil that covers the field of Indian law.”

After reading the introduction, I was tempted to shout “yes” to his proposed reform program because I believe, like Pommersheim, that it may enable them to escape their longstanding dependency on the federal government. Unfortunately, and disappointingly, Pommersheim does not really mention again, in the remaining 400 pages of his book, his bold and audacious program. It is as if he was overcome by the sheer audacity of his proposal and decided, instead, to use it as the analytical foil for his explanation as to why any such efforts will likely be thwarted by the U.S. Supreme Court.

Therefore, I suggest that the reader skip the introduction so as to focus on the remainder of the book, which does provide inter-

esting and valuable insights into the origin and evolution of federal Indian law over the past 200 or so years. Once freed of his self-imposed requirement of engineering the Indian peoples' escape from their dependent status, Pommersheim successfully and satisfyingly tackles, and largely demolishes, the Supreme Court's continued use of expedient, and arguably unconstitutional, judicial rationalizations to justify the federal government's continued assertion of a largely unfettered plenary power over the Indian peoples. He lucidly explains how the Indian peoples' original sovereign rights have been shattered to bits and pieces by both the past and present decisions of the Court. Within the compass of his more traditional Indian law analysis, Pommersheim provides useful counsel as to how the Indian peoples—given that they likely will not escape their dependent status any time soon—can use Indian law so as to function more successfully within its confines.

Thankfully, Pommersheim never does successfully reconcile himself to the reality that those historic forces, unleashed by the American efforts to colonize this continent, possibly succeeded in permanently enveloping the Indian peoples in their present dependent status. This is what I find most admirable about his book: he really does wish that the Indian peoples could use his reform program to escape their dependent status. His steadfast refusal to become reconciled to the Indian peoples' fate—despite his inability to explain how that fate might be escaped—is what, for me, elevates his book above the norm of today's somewhat dour and fatalistic Indian law scholarship.

In sum, Pommersheim's new book deserves to be read because it recognizes that Indian law, when used thoughtfully and appropriately, can substantially assist the Indian peoples in their self-determination efforts. However, Indian law's role, despite Pommersheim's suggestions to the contrary in his introduction, is not to ultimately free the Indian peoples from their dependency on the federal government. Instead, the Indian peoples themselves—and not lawyers, courts, or legislatures—must decide when, and if, they will choose to exit their present state of dependency on the federal government. Pommersheim wisely expresses no opinion as to what choices, if any, the Indian peoples should make in this regard. Instead, he appropriately focuses on how Indian law, and perhaps indige-

nous rights law, can be used to enlarge the Indian peoples' sphere of action within their existing dependent status.

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AARON D. PURCELL. *White Collar Radicals: TVA's Knoxville Fifteen, the New Deal, and the McCarthy Era*. Knoxville: University of Tennessee Press, 2009. 288 pp. \$39.95 (cloth).

A week before Senator Joseph McCarthy was censored by the Senate in 1954 for the excesses of his anti-communist campaign, a federal prisoner named William Remington was mortally wounded by three inmates wielding a brick. The assailants viewed themselves as patriotic avengers. Remington, a 37-year old Dartmouth graduate, Navy veteran of World War II, fluent in Russian, and formerly a rising government official, was serving time for perjury after being convicted of lying about affiliations with the Communist Party. According to the warden, the attack was not "personal," but provoked by Remington's radical past.

Remington had something in common with 14 other young Americans, some of whom testified against him at his trials or otherwise cooperated with the government to avoid charges against themselves. The 15 shared a couple of years working for the Tennessee Valley Authority at its Knoxville headquarters toward the end of the 1930s. They became friends, as well as lovers, spouses, and ex-spouses. All were compatriots in various leftist causes revolving around labor activism, supporting Spanish Loyalists, and racial justice. At least half were Communist Party members in a cell of about 20 at TVA, but they all attended open party meetings.

The TVA was one of the most ambitious and innovative of the New Deal programs, using dam building and power production to spur sweeping economic and social development over a region with entrenched poverty. To communists and socialists, it promised to be a showcase for government-run industrial production, particularly since TVA management encouraged unions. TVA gained a reputation as infiltrated by communists, although the party's actual presence was miniscule.

The 15 mostly worked in clerical jobs, delivering mail, filing, and typing. All had college degrees or other advanced education. None