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Review of *Native American Sovereignty on Trial: A Handbook with Cases, Laws, and Documents* By Bryan H. Wildenthal

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Native American Sovereignty on Trial: A Handbook with Cases, Laws, and Documents. By Bryan H. Wildenthal. Santa Barbara, CA: ABC-CLIO, 2003. xvi + 359 pp. Table of cases and statutes, annotated bibliography, index. \$55.00 cloth.

Native American Sovereignty on Trial is part of the On Trial series that examines complex and controversial legal issues with an eye toward providing students and other interested readers with an analytical and educational examination of how “the law in all its various forms—constitutional, statutory, judicial, political, and customary—has shaped and reshaped the world in which we live today.”

Indigenous sovereignty is the subject matter of the book: specifically, the way Native sovereignty has been defined and redefined by the US legal and

political systems; the manner in which it has been occasionally supported, and more often devastated or severely diminished, by the Supreme Court; and the evolution the doctrine has experienced in five legal controversies—John Marshall's Cherokee Cases, Indian treaty rights, tribal civil and criminal jurisdiction, and Indian gaming. These topics certainly fill the bill as being both exceedingly complex and, in the minds of some, deeply controversial, though why they are considered "controversial" is a question that needs further examination than we get in this volume. Certainly from an indigenous perspective, there is nothing "controversial" about reserved lands, retained sovereign and treaty rights, or the diplomatic relations that ensued as tribal nations encountered invasive foreign nations and later had to deal exclusively with the permanent settler-state that is the United States and the constituent states that have nearly always clamored for additional tribal resources and rights.

Wildenthal's broad task is to provide a deeper understanding of the history and political and legal status of tribal nations as the original governing bodies in North America and to examine the schizophrenic nature of Western law as it has developed in relation to Indian nations. In part 1, the author provides a constrained definition of what he terms "Native American sovereignty," which he designates as simply "the power to govern." He then proceeds to discuss how the sovereignty of First Nations has been both recognized and disavowed in the five "historic legal controversies" that serve as the book's organizational framework. Since the US Supreme Court, Wildenthal correctly notes, "has been the ultimate arbiter of these [sovereignty] trials," much of the book is a recitation of case law.

Part 2 is a generally useful set of reference materials, including certain edited documents (treaties and court decisions); a glossary of important terms, personalities, and laws; a chronology; a list of judicial precedent and congressional statutes; and an effective, if too brief, annotated bibliography.

While there are useful historical and legal data in this book, there is nothing particularly fresh or innovative in the text, and unfortunately it perpetuates certain misconceptions and stereotypes about indigenous legal status and the tribal-federal relationship warranting more critical analysis and less recitation. Such misconceptions include the following: that First Nations are politically and legally "subordinate" to the US; that the US Constitution, including the Bill of Rights, applies generally throughout Indian Country; that the doctrines of conquest and discovery irrevocably diminished the sovereign character of tribes; that federal plenary power (read: absolute) traces to the Marshall cases; that the US asserted "ultimate sovereignty" over tribal nations to the exclusion of all foreign powers; and that the trustee/beneficiary relationship is synonymous with the guardian/ward relationship.

The perpetuation of such corrosive legal and political misconstructions diminishes the overall thrust of what is otherwise a useful book. Readers are encouraged to consult the actual diplomatic and treaty record that unfolded between First Nations and the latter day governments that came to the Americas to glean a more realistic depiction of indigenous sovereignty. **David E. Wilkins**, *Department of American Indian Studies, University of Minnesota, Twin Cities.*