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Native American Sovereignty on Trial: A Handbook with Cases, Law, and Documents, by Bryan H. Wildenthal

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conclusions about the future of the technique and provide suggestions about directions it should take to be a successful tool.

This book introduces us to a research technique that offers great potential to evaluate environmental goods. While it is flexible enough to deal with a range of applications from non-use values of nature preserves to environmentally-friendly consumer goods, it is a book written primarily by and for environmental economists.

The authors succeeded in being very descriptive and organized with the presentation of the material. The casual reader should nonetheless be cautioned that certain parts of the book may be difficult to comprehend, depending on the reader's background. A minimal understanding of multinomial logistical regression analysis and experimental design construction would certainly be useful. Being about a method, this book is primarily intended for scholars and practitioners in the areas of environmental studies and economics who are engaged in this kind of research.

Overall, there are great potential benefits of applying choice modeling to the estimation of non-market environmental values. Allow me to conclude this review by quoting the two editors and main contributors in their own words:

> In weighing up the strengths and weaknesses [of this technique] it is apparent that choice modeling is no "magic bullet" in the profession's attempt to deal with the estimation of non-market values....However, the most significant [contribution of the technique] is its ability to produce a rich database on people's preferences and to generate statistically robust models of choice. With that level of information, policy makers are able to make decisions about both the provision and management of natural resources that are far better informed and, hence, more likely to generate net benefits for the community at large.

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Native American Sovereignty on Trial: A Handbook with Cases, Law, and Documents. By Bryan H. Wildenthal. Santa Barbara, CA: ABC-CLIO Press, 2003. Pg. 359. $55.00 hardback.

From 1830 to 1836, George Caitlin traveled around the western United States to paint "plains Indians." Caitlin, a lawyer turned painter, sought to preserve the customs and appearance of the Indians through

his work. He idealized the Indians' relationship with nature and hoped that his "Indian Gallery" would help defend and preserve their way of life. Unseen in Caitlin's dramatic scenes of Indians on horseback, dignified Indian elders, and innocent Indian children were the land speculators who forced tribes from their homes in the South into reservations in the West. Caitlin's paintings now age in the Smithsonian. His works, once exotic and wild, now look familiar and romantic. But in spite of Caitlin's romanticism, Caitlin sympathized with his subject and, to the extent that he could, defended it. Like George Caitlin's simplified portrayal of Native American life in the nineteenth century, Bryan Wildenthal presents a palliative version of Native American law in his book, *Native American Sovereignty on Trial.*

If Native American sovereignty is on trial in this book, Wildenthal is its advocate. Wildenthal admirably attempts to survey the byzantine struggle for Native American sovereignty, but even as he does he draws a defensive and sometimes biased picture of this struggle. Nevertheless *Native American Sovereignty on Trial* accomplishes what it sets out to do: introduce the student to "the history and status of Native American societies as governmental bodies within the United States."

The book consists of commentary and edited primary materials on Indian law aimed at a general undergraduate audience. It is not a casebook or a treatise on Indian Law. While casebooks present cases with marginal notes and treatises thoroughly examine legal topics, this book does neither. Rather, Wildenthal's book takes an accelerated look at Indian law with selections of cases and treaties in the back.

Wildenthal divides Indian law into several big categories: Indian treaty rights, tribal criminal jurisdiction, tribal civil jurisdiction, and tribal gambling. In each of the categories that Wildenthal examines, the author tends to side with the Native American plaintiff or defendant. A romantic Indian petitioner seeking justice in an estranged political system has replaced Caitlin's romantic horseback rider. Although this picture of Indian law may engage the reader's sympathy, it does so at the cost of a more complete discussion of the issues. Not addressing the issues in a case frees Wildenthal to discuss the motives of the Court. He can admonish the Court for failing to observe the kind of sensitivity toward the Native Americans that he professes. For example, Wildenthal criticizes Marshall's defense of the Indians in the Cherokee cases. He notes that Marshall's decision, "[a]lthough plausible...was hardly compelled," and discusses alternatives to that decision. The price for these digressions is that discussion on "aboriginal title" and the formation of the trust-trustee doctrines is cut short. Consequently, the reader only gets a sketch of a case that must be filled-in by reviewing the primary materials if any or by going outside of the text.

Despite glossing over some of the complexities and contradictions of Indian Law, Wildenthal succeeds by reaching out to his audience. Wildenthal talks to his readers. He leads his readers from one case to the next, and he engages them with questions following the cases that specifically impact on the evolution of Native American sovereignty.

Normally these questions help the reader focus on a particular passage in a case, but they can become overly pedantic. When Wildenthal is particularly skeptical of a court decision, he lets the reader know. For example, while discussing *Oliphant v. Suquamish Indian Tribe*, a 1978 case that eliminated tribal criminal jurisdiction over non-Indians, Wildenthal asks the reader, "Does [Rehnquist] draw the fairest and most logical conclusion from that evidence? Was his analysis internally consistent?" In case the reader answers in the affirmative, Wildenthal spells out how Rehnquist's arguments were illogical and inconsistent.

Or consider what Wildenthal says when Justice Kennedy missteps: "Kennedy's *Duro* opinion suggested sheer ignorance about the history and realities of Indian law and Indian country." Wildenthal pretends no objectivity in that comment, but his favorite jab at the justices comes when he reminds them that Indians have the characteristics of both U.S. citizens and political aliens. Wildenthal seems to think that, had the Justices better grappled with that paradox, the outcomes of several decisions would have been different.

At best, Wildenthal's conversational approach to the cases grabs the reader by telling the stories behind the cases or by telling the stories that could have replaced the cases. At worst, it demonstrates how Wildenthal conflates the court's decisions with his own.

Wildenthal offers a more complex picture of Native American law than Caitlin did of the plains Indians, but it is still a picture with a limited perspective. Hopefully readers who accept Wildenthal's perspective of Native American sovereignty will later compare it with other works on Indian law. Few scholars of Indian law remain neutral in their work, and Wildenthal is no exception, but he does impart to his readers the passion that most scholars of Indian law share.

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