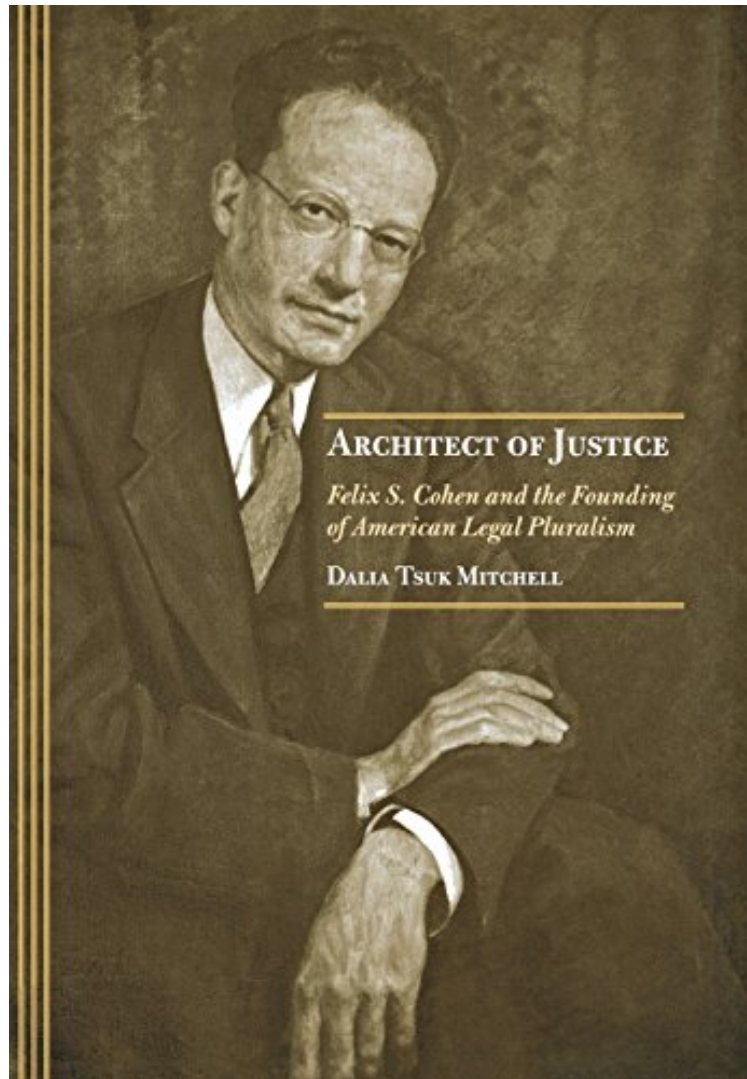


Architect of Justice: Felix S. Cohen and the Founding of American Legal Pluralism

Dalia Tsuk Mitchell

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#1442996 in Books Dalia Tsuk Mitchell 2007-03-22 Original language: English PDF # 1 9.57 x 1.15 x 6.451, 1.50 #File Name: 0801439566384 pages Architect of Justice Felix S Cohen and the Founding of American Legal Pluralism | File size: 72.Mb

Dalia Tsuk Mitchell : Architect of Justice: Felix S. Cohen and the Founding of American Legal Pluralism

before purchasing it in order to gauge whether or not it would be worth my time, and all praised Architect of Justice: Felix S. Cohen and the Founding of American Legal Pluralism:

2 of 2 people found the following review helpful. An Extraordinary Intellectual Biography By Ronald H. Clark This is a major work of intellectual biography written by an associate professor of law at George Washington University here in

Washington, D.C. The subject is a real giant in the field of American jurisprudence (and other areas as well) about whom we hear relatively little these days despite his many lasting accomplishments: Felix S. Cohen (1907-1953). I originally read this book because of Cohen's role as an important legal realist during the 1930's (e.g., "Transcendental Nonsense and the Functional Approach"). I was pleasantly surprised to discover as I read this fine book that this was but one facet of his multi-dimensional activities and contributions. Because the book is as rich as its subject, it is impossible to touch upon many points in a short review. The key focus of the author is to discuss Cohen and the development of his concepts of pluralism, group autonomy and group power, and how Cohen saw this dimension of American political (and legal) life as a source of important empirically-based values. The book effectively sketches Cohen's early life (and his relationship to his father Morris R. Cohen, the important CCNY philosopher). There is a helpful discussion of Cohen's first book, "Ethical Systems and Legal Ideas." Out of Columbia law, and not wanting to be a full-time academic, Cohen ended up (of all places) at the Department of the Interior where he remained a number of years. He got involved in Interior's role as trustee and administrator for the American Indians. It was within this context that Cohen worked out many of his key ideas about pluralism and decentralization, and he was deeply involved in the so-called "Indian New Deal" reform efforts. He also wrote the key book on Indian law which is still used today, and worked to get Jewish refugees resettled in Alaska or the Virgin Islands. One of the strengths of the book is the author is very effective in relating how Cohen's activities (such as while at Interior) influenced and shaped the development of his thought. The author also discusses Cohen's post-Interior period in private practice where he handled a number of important Indian cases and continued to develop his efforts to develop a "conscious ethical criticism of law." He also taught law school and wrote or edited several books, including a basic jurisprudential collection with his father. One of the more interesting areas he worked in was attempting to tie the reliance upon precedent to particular values and their origins. His untimely death at 46 foreclosed what could have been amazing further contributions. It is helpful to have handy when reading this book Cohen's collected articles and reviews edited by his wife, Lucy Cohen--"The Legal Conscience." There is but one problem I encountered with the book. The author, whose research is comprehensive, devotes a good chunk of the book to Indian related themes--since this is what Cohen spent much of his time being involved with. The detail here, as with the rest of the book, is exhaustive. However, if one is not particularly interested in this topic, it can really become a challenge to keep plowing through the extensive discussion. On the other hand, this is the environment that gave rise to much of Cohen's key contributions, and it is essential to understand this context. An extremely and quite extensive bibliography is included. By any measure, a book worthy of its subject.

3 of 3 people found the following review helpful. Wonderfully nuanced, politically relevant, and deeply insightful. By Eric Tsuk Mitchell's remarkable achievement melds political theory, law, philosophy, and our legal treatment of Native Americans into a wonderfully rich and sensitive intellectual biography of one of the last century's leading legal thinkers who, really quite by accident, also became the creator of modern American Indian law. She skillfully and subtly integrates the deep ideas underlying Cohen's different fields of interest and achievement and his early life influences into a coherent theory of legal pluralism as she analyzes, for the first time, his experiences as a second-generation Jewish immigrant, his education at the hands of leading philosophers and law teachers, his relationship with his father who was one of America's leading philosophers, and what he learned while working at the Department of the Interior during the New Deal. This book is a terrific and enlightening read on its own. It is also, perhaps, the best account of the philosophy underlying our contemporary legal treatment of Native Americans. More than that, the book provides the reader with an alternative legal vision of communal life in an America characterized by great diversity, a vision that had real currency during the first half of the 20th century until it was eclipsed by individualism as our reigning mode of legal thought and action. The story of Cohen's striving for justice for all, his successes, and his failures, provide important original insights into the development of modern America. Anybody interested in the way American values of acceptance, tolerance, and community can be integrated into a liberal democratic society will find this book must-reading. Cohen was a man who deserved a biography, and in Tsuk Mitchell he got the biographer he deserved. The American Historical Association certainly knew what it was doing when it awarded this book its prestigious Littleton-Griswold Prize in 2007.

A major figure in American legal history during the first half of the twentieth century, Felix Solomon Cohen (1907-1953) is best known for his realist view of the law and his efforts to grant Native Americans more control over their own cultural, political, and economic affairs. A second-generation Jewish American, Cohen was born in Manhattan, where he attended the College of the City of New York before receiving a Ph.D. in philosophy from Harvard University and a law degree from Columbia University. Between 1933 and 1948 he served in the Solicitor's Office of the Department of the Interior, where he made lasting contributions to federal Indian law, drafting the Indian Reorganization Act of 1934, the Indian Claims Commission Act of 1946, and, as head of the Indian Law Survey, authoring *The Handbook of Federal Indian Law* (1941), which promoted the protection of tribal rights and continues to serve as the basis for developments in federal Indian law. In *Architect of Justice*, Dalia Tsuk Mitchell provides the first intellectual biography of Cohen, whose career and legal philosophy she depicts as being inextricably bound to debates about the place of political, social, and cultural groups within American democracy. Cohen was, she finds,

deeply influenced by his own experiences as a Jewish American and discussions within the Jewish community about assimilation and cultural pluralism as well the persecution of European Jews before and during World War II. Dalia Tsuk Mitchell uses Cohen's scholarship and legal work to construct a history of legal pluralism a tradition in American legal and political thought that has immense relevance to contemporary debates and that has never been examined before. She traces the many ways in which legal pluralism informed New Deal policymaking and demonstrates the importance of Cohen's work on behalf of Native Americans in this context, thus bringing federal Indian law from the margins of American legal history to its center. By following the development of legal pluralism in Cohen's writings, *Architect of Justice* demonstrates a largely unrecognized continuity in American legal thought between the Progressive Era and ongoing debates about multiculturalism and minority rights today. A landmark work in American legal history, this biography also makes clear the major contribution Felix S. Cohen made to America's legal and political landscape through his scholarship and his service to the American government.

"Dalia Tsuk Mitchell has produced a work of impressive legal scholarship." *New York Law Journal* "Outside a small circle of lawyers and legal scholars, Felix Cohen is virtually unknown. This ought to change and will after Dalia Tsuk Mitchell's masterful book. Cohen was a major figure among legal and political scholars in the first half of the twentieth century. Mitchell does a superb job of recovering his legacy, which has direct implications for some of the most urgent questions in political and legal theory today. This book is a must-read for anyone interested in legal and political theory." Gregory S. Alexander, A. Robert Noll Professor of Law, Cornell Law School, Cornell University "A brilliant student of philosophy, a skeptic about the utility of legal rules, and a Socialist who nonetheless was a firm believer in the American democratic faith, Felix S. Cohen came into the federal government in the early New Deal for short-term service in the Department of the Interior. He ended up spending fifteen years in the service of justice for American Indian tribes in this most unlikely of settings the federal department oriented toward controlling tribes rather than allowing them self-determination. *Architect of Justice*, the first comprehensive study of Cohen, is a major achievement along several dimensions. It is a thoughtful intellectual history of one of law's most intelligent and intriguing thinkers a pillar of the legal realism movement whose scholarship is still important today. It is also a case study in how a brilliant man trained in legal theory attempted to put his ideas into action to promote justice for American Indians, Jews seeking to escape Nazi horror, and other subordinated people. And it is also an incredibly rich analysis of how Cohen took the amorphous treaties, statutes, historical (mis)understandings, and the like that involved federal relations with Indian tribes and literally constructed a new, coherent field of law, federal Indian law. Students of law, federal-tribal relations, New Deal history, and American political theory will find much to learn in these pages." Philip P. Frickey, Alexander F. and May T. Morrison Professor of Law, Boalt Hall School of Law, University of California at Berkeley "Dalia Tsuk Mitchell's brilliant intellectual biography shows how Felix S. Cohen's commitment to pluralism linked his seminal contributions to legal realism and federal Indian law. Cohen's philosophical, ethical, political, and legal theories enabled him to systematize and reimagine federal Indian law in a manner that respected tribal sovereignty and culture. This biography is not only a gripping story but also reveals surprising truths about the vast legal, political, and philosophical changes experienced during the middle years of the twentieth century." Joseph William Singer, Bussey Professor of Law, Harvard Law School, Harvard University "Architect of Justice is a masterful intellectual biography full of discoveries and keen analysis illuminating many of the most intractable problems of today. The book will be a must-read for many people, and a delight for many more." Aviam Soifer, Dean and Professor, William S. Richardson School of Law, University of Hawai'i "Felix S. Cohen's life and work were dedicated to theorizing how group rights especially those of Native Americans should be protected. Cohen's achievements included not only his work on behalf of Indian tribes but also his arguments for justice in all corners of society and for all peoples. Dalia Tsuk Mitchell's ability to bring this extraordinary commitment to justice to life is an enormous contribution to our understanding of progressive thought in the middle decades of the twentieth century." Sarah Barringer Gordon, Arlin M. Adams Professor of Constitutional Law and Professor of History, University of Pennsylvania From the Back Cover "Dalia Tsuk Mitchell's brilliant intellectual biography shows how Felix S. Cohen's commitment to pluralism linked his seminal contributions to legal realism and federal Indian law. Cohen's philosophical, ethical, political, and legal theories enabled him to systematize and reimagine federal Indian law in a manner that respected tribal sovereignty and culture. 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About the Author
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