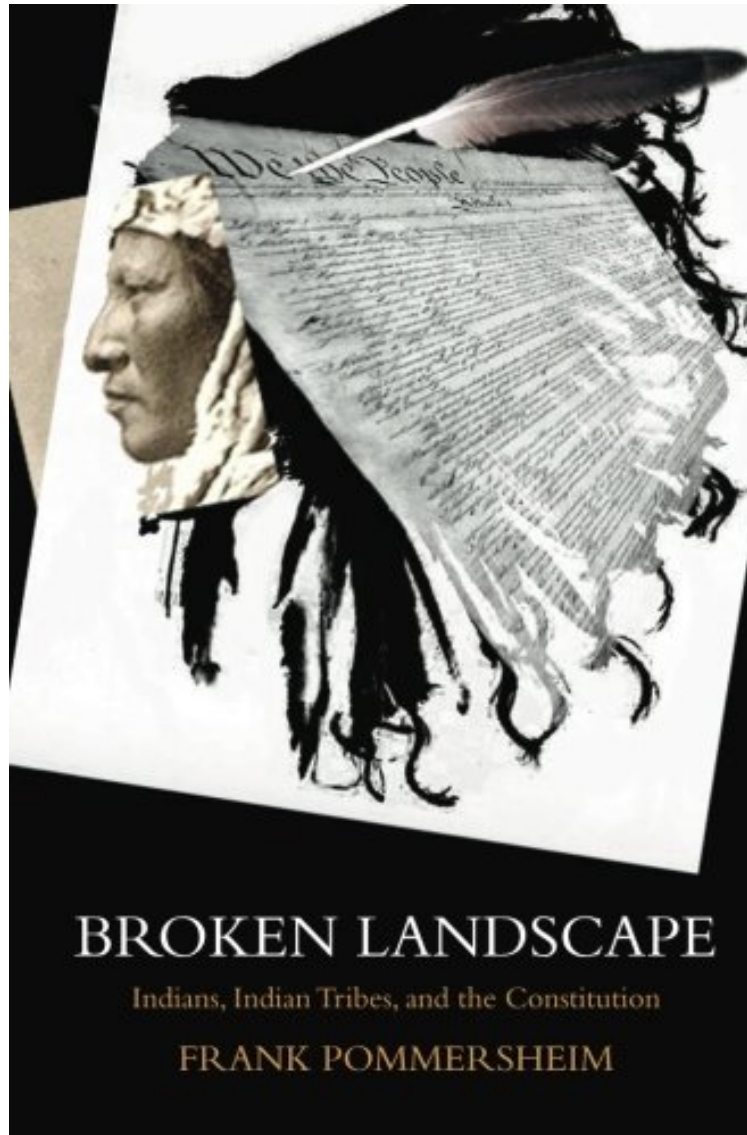


Broken Landscape: Indians, Indian Tribes, and the Constitution

Frank Pommersheim

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Frank Pommersheim : Broken Landscape: Indians, Indian Tribes, and the Constitution before purchasing it in order to gage whether or not it would be worth my time, and all praised Broken Landscape: Indians, Indian Tribes, and the Constitution:

4 of 4 people found the following review helpful. The dead Constitution from a Native-American perspective By Efrem Sepulveda In Gutzman's and Woods's "Who Killed the Constitution," they describe numerous events and court decisions in our history that marked the end of the Constitution's power over our government. In essence the

Constitution is dead. Frank Pommersheim in his book on the Native-Americans' treatment by our government, states that they had been given a raw deal and that the courts and Congress have totally broke away from any Constitutional moorings with regards to Indian law. In essence, the Constitution is dead to this group of people as well. Pommersheim summarized that the Constitution grants the Executive Branch with power to negotiate treaties with Indian Tribes with the Senate concurring while the Legislative Branch is given the power to regulate trade with the Indian Tribes. Other than that, there is very little in the Constitution that deals with Native-American affairs. Pommersheim goes into the early dealings with Indians from before the founding of this country to the disastrous decision of *Lone Wolf v. Hitchcock* which gave Congress unconstitutional "plenary" power to abrogate treaties with the Indians. The author goes into the "Marshall Trilogy." This trilogy is a set of cases that affected the Indians' right to the land that they occupied including *Johnson v. M'Intosh*. The second portion of the book deals with the citizenship issue and First Amendment rights of Native Americans, material that included the denial of Indians to perform certain acts according to their beliefs like gathering eagle feathers for ceremonies and using peyote. The final portion of the book deals with how modern courts have dealt with Indian issues and proposes solutions to restore tribal sovereignty for these people. A few observations. Pommersheim states in his book that while he laments the fact that Congress blatantly violated the Constitution by abrogating treaties, he felt that it was no use to challenge it since such power was never struck down by the courts. This seems to be somewhat fatalistic in my opinion. He praises Justice Clarence Thomas for his concurring opinion in *United States v. Lara* in that Thomas excoriates past congressional actions that make the idea of tribal sovereignty a nullity by regulating every aspect of tribal life and function. In light of the fact that a non-functioning Constitution is essentially dead, Pommersheim keeps referring to it as a "living" Constitution. Curious in my opinion. This book is 312 pages long with extensive end notes and an index. There is no bibliography however. While there might be differences in commentary between Gutzman, Woods and Pommersheim, one thing is for sure. The Constitution is no longer effective in our governance today and has not been for a long time. Four stars.

Broken Landscape is a sweeping chronicle of Indian tribal sovereignty under the United States Constitution and the way that legislators have interpreted and misinterpreted tribal sovereignty since the nation's founding. Frank Pommersheim, one of America's leading scholars in Indian tribal law, offers a novel and deeply researched synthesis of this legal history from colonial times to the present, confronting the failures of constitutional analysis in contemporary Indian law jurisprudence. He demonstrates that the federal government has repeatedly failed to respect the Constitution's recognition of tribal sovereignty. Instead, it has favored excessive, unaccountable authority in its dealings with tribes. Pommersheim argues that the Supreme Court has strayed from its Constitutional roots as well, consistently issuing decisions over two centuries that have bolstered federal power over the tribes. Closing with a proposal for a Constitutional amendment that would reaffirm tribal sovereignty, *Broken Landscape* challenges us to finally accord Indian tribes and Indian people the respect and dignity that are their due.

"In elegant, year clear, and easy-to-read prose, Pommersheim provides a summative legal history and a constitutional analysis of some of the core Supreme Court decisions related to the role of the US Constitution in American Indian law...useful and accessible for American Indian tribal governments and tribal citizens, as well as of interest to scholars and students in other disciplines, such as Political Science and American Indian Studies."--Law and Politics Book "A useful study...adequately conveys some of the fascinating difficulties and conundrums that severely complicate the relationship between indigenous nations, their tribal citizens, and the United States."--American Historical "Offers a close and devastating reading of the defining cases in the field...Part of the mastery displayed in the text is [Pommersheim's] ability to move so quickly yet so thoroughly from the Cherokee Cases of the 1830s to *Lone Wolf v. Hitchcock* to contemporary Supreme Court cases...A nuanced, thoughtful, and original approach--a unique contribution to Indian law, and essential reading for all those interested in the field."--CHOICE "Pommersheim delivers a beautifully written, detailed account of the complicated nature of Indian nations within the federal system and provides a roadman for understanding how tribal sovereignty has been situated--directly or indirectly--in the American constitutional framework since the nation's founding...The sweeping project chronicles a history that is, for scholars in the field, comfortably familiar, yet Pommersheim sheds new light on historical events and policies that shaped the founding of the United States, and, accordingly, its relationship with the indigenous nations it encompasses...*Broken Landscape* is a comprehensive, beautifully crafted, ambitious work that courageously breaks from the swarm of contemporary critique of the Supreme Court's Indian law jurisprudence...Pommersheim has written the book as an invitation to dialogue, and an incitement to action."--Journal of Legal Education "Anyone who follows the writing about the Sioux (Lakota/Dakota/Nakota) cannot help but be attracted to a book with the title *Broken Landscape*...Pommersheim spends some time indicating that he is pessimistic about the possibility that US courts and Congress will ever accept the criminal nature of their behavior so arduously traced in this text, which means that little can be done to rectify the sins of the past except to amend the Constitution and put our faith in the future of that document. This proposal is what make this book a milestone in the regional discussions here in South Dakota."--

Wicazo Sa "An outside-in look at what has gone wrong within federal Indian law at the national level because of failures by the Congress and the Supreme Court. Pommersheim provides a wonderfully readable history about the development of law regarding Indians and Indian tribes."--Tribal College Journal of American Indian Higher Education

"For Frank Pommersheim, the landscape of American Indian Law is broken because the Supreme Court's longstanding drift ignores both original constitutional intent and the quality of modern tribal governments. Can his call for a clarifying constitutional amendment to fortify tribal sovereignty, even given his deep scholarship and sensible, straightforward thinking, possibly be realistic? We'll see. But this powerful, compelling narrative puts the proposal on the table, and it will be noticed."--Charles Wilkinson, Distinguished University Professor and Moses Lasky Professor of Law at the University of Colorado, and author of *American Indians, Time, and the Law and Blood Struggle*

"Professor Pommersheim has made an important new contribution to a significant project he initiated in *Braid of Feathers*. Instead of stopping with a critical dissection of our legal and historical understanding of tribes and Indian law, he proposes a new integration that is consonant with our best selves and with a deep understanding of what it means to be sovereign. Disagree where we will, we would do well to listen to his voice and to engage with his powerful vision."--Gerald Torres, Bryant Smith Chair in Law, University of Texas at Austin

"Frank Pommersheim's *Broken Landscape* offers a brilliant, sweeping, and comprehensive overview of the development of Indian Law and the Constitution. The book will be to this generation of Indian law students and policy makers what Charles Wilkinson's *American Indians, Time, and the Law* was to the last."--Lindsay G. Robertson, Orpha and Maurice Merrill Professor of Law, History, and Native American Studies, University of Oklahoma

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