

8-1994

**Review of *The Northern Cheyenne Indian Reservation, 1877-1900*
by Orlan J. Svingen**

Michael L. Tate
University of Nebraska at Omaha

Follow this and additional works at: <https://digitalcommons.unomaha.edu/histfacpub>

 Part of the [United States History Commons](#)

Please take our feedback survey at: https://unomaha.az1.qualtrics.com/jfe/form/SV_8cchtFmpDyGfBLE

Recommended Citation

Tate, Michael L., "Review of *The Northern Cheyenne Indian Reservation, 1877-1900* by Orlan J. Svingen" (1994). *History Faculty Publications*. 1.
<https://digitalcommons.unomaha.edu/histfacpub/1>

This Book Review is brought to you for free and open access by the Department of History at DigitalCommons@UNO. It has been accepted for inclusion in History Faculty Publications by an authorized administrator of DigitalCommons@UNO. For more information, please contact unodigitalcommons@unomaha.edu.

Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century. Sidney L. Harring. Cambridge: Cambridge University Press, 1994. Photos and index, xiii + 301 pp. \$54.95 cloth, \$17.95 paper.

In *Crow Dog's Case*, Sidney L. Harring's objective was to correct the omission of tribal legal traditions from United States Indian law. The reason for this exclusion, according to Harring, is that federal Indian law historically

focused on policy questions outside of tribal cultural and historical contexts while at the same time, the tribes' cultural-based legal traditions remained rooted in tribal culture and history. Confined to this policy-based judicial vision, nineteenth century courts made "ahistorical" decisions which distorted or ignored tribal jurisprudence and created a legacy of ongoing misconceptions of tribal legal traditions and customs.

Pivotal judicial opinions from nineteenth century federal and state courts and visible tribal responses to specific cultural judicial crisis lent itself to a case study approach. As a result, Harring devoted an individual chapter to Chief Justice John Marshall's ambiguous Cherokee opinions. Included in the author's discussion of the Cherokee cases is an analysis of the Georgia state court's ruling in the Corn Tassel case; this is an important contribution to the study of federal/state Indian law. Subsequent chapters focus on the rise and fall of Creek sovereignty, Crow Dog's case, tribal depredation claims from the nineteenth century wars, and Congress's denial of Alaskan tribes to practice tribal law. Individually, each case study was informative providing the reader with frequent cross-sectional legal comparisons of state, federal, and tribal interpretations of law.

A human dimension also emerges from these pages. Corn Tassel surfaces as a human being who was executed and he becomes more than a passing name associated with the Cherokee appeal to the U.S. Supreme Court where the tribe sought an injunction against the state of Georgia. Harring brings life to Creek leaders Crazy Snake and Isparhecher, and Scun-doo, a Chilcat physician from Alaska, illustrating how each was a fascinating individual who sought to preserve his tribe's legal traditions.

Though individuals and case studies emerge from different cultures and case studies, *ex parte Crow Dog* ties them all together. Decided in 1883, the U.S. Supreme Court made a strong recognition of tribal sovereignty, but according to Harring, failed to accept tribal law and punishment as valid. In response to the court's decision, Congress passed the Major Crimes Act nullifying the court's ruling.

History is the soul of this book, and the author's use of historical method is one standard to be applied in determining his success in recreating the "social history of Indian law" (p. 24) and the place to begin is *ex parte Crow Dog*. It was the Indian Service, Harring claimed, that had "cultivated Crow Dog as a test case . . . [to establish] federal criminal jurisdiction over the Indian tribes" (p. 102).

Examining different evidence unravels the conspiracy theory. At the time that Crow Dog killed Spotted Tail, the Rosebud agent and chief clerk

were both involved in an illegal reservation liquor trade. To make matters worse, chief clerk John Lelar was also a U.S. court commissioner and simply bound Crow Dog, the former chief of police, over to civil authorities for trial to remove him from the reservation and protect their illicit activities. Despite Haring's claim that the Brule reconciled themselves to Lakota justice, Young Spotted Tail sought further revenge and paid witnesses to testify against Crow Dog in a Deadwood court the following spring.

This query into historical fact is important because different facts create new cause and effect relations. Clearly several Brule tribesmen refused to accept tribal punishment and used western judicial institutions for their own gains. What does that tell us about tribes changing nineteenth-century legal traditions?

Regardless of differences in historical interpretation, few will doubt Haring's conclusions. He has shed insights into nineteenth century tribal legal processes, and that alone is a worthy contribution to the legal scholarship of nineteenth century Native America history and he accomplished that task by writing an informative, questioning story. Richmond L. Clow, *Native American Studies Program, University of Montana*.