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## Review of *The Encyclopedia of Native American Legal Tradition*

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**Contemporary Federal Policy Toward American Indians.** Emma R. Gross. New York, NY: Greenwood Press, 1989. x + 165 pp. Tables, figures, appendices and selected bibliography. \$42.95 cloth (ISBN 0-313-26505-4).

This book is a public policy study detailing the various factors which culminated in pro-Indian federal policy and legislation during the 1970s. The author's primary thesis is to suggest the 1970s represented a marked departure from previous federal Indian policy and legislation in that Native Americans themselves were well-represented in the democratic process impacting favorable federal decision-making.

The book begins with an excellent historical overview of federal Indian policy, defining both the basis and the friction inherent over the principles of tribal sovereignty and the Congressional plenary power over Indian nations. Citing major Indian legislation passed in the 1970s (e.g. Alaska Native Claims Settlement Act of 1971, Menominee Restoration Act of 1973, Indian Self-Determination and Educational Assistance Act of 1975, and Indian Child Welfare Act of 1978), Gross sets the stage for a comprehensive discussion of the development of Indian policy away from termination of the

federal-tribal trust relationship towards tribal sovereignty and self-determination.

In the second and third chapters, the complex federal-tribal "trust" relationship and self-determination ideology are examined. The author makes the critical point that the nature of the constitutionally-mandated federal obligation to Native Americans is an "evolutionary principle that is constantly being redefined" (p. 27), and came to be interpreted in the 1970s as an obligation to protect and enhance the well-being of Native Americans. Factors which contributed to this interpretation include the failures of termination policy, urban relocation schemes and the Indian Claims Commission to settle outstanding treaty-grievances. In addition, political leadership from the Nixon administration set the stage for a new definition of tribal sovereignty, one that stressed self-government and economic development. Under the Reagan administration of the 1980s, the interpretation of sovereign status evolved into an interpretation of a "government to government" relationship, similar to that enjoyed by state or local governments.

The importance of the "Great Society" and "War on Poverty" programs of the 1960s and 1970s are examined in Chapter 4. The federally-recognized tribes capitalized on increased federal spending to enhance educational opportunities for tribal members, build physical infrastructure, and develop political organizations. The benefits of increased federal spending resulted in the training of a new generation of Indian attorneys and political leaders who oversaw the development of tribal programs managed outside the control of the Bureau of Indian Affairs. This experience and new-found confidence in tribal self-government proved to be an essential component in the fight for greater tribal autonomy and self-determination.

Chapters 5 and 6 examine the importance of Presidential initiative and Congressional leadership in Indian policy development of the 1970s. The author spends considerable time detailing the positive contributions of the Nixon Administration, effectively arguing that Nixon's disavowal of termination was the turning point in the shift towards self-determination legislation and policy. Unprecedented access was granted by the Whitehouse and Congress to Native American lobbyists and advocates concerned with restoring balance to the trust relationship.

The seventh chapter illuminates the role Native Americans played in securing the shift towards self-determination. Capitalizing on the civil rights movement and the sympathetic climate towards minority rights, Native Americans came together via collective actions strategies to dramatize and sensitize the American leadership and public to Indian issues. This era is

represented by the unprecedented growth of pan-Indian organizations and movements, including the American Indian Movement (AIM), the National Congress of American Indians (NCAI), and the National Indian Youth Council (NIYC). Dramatic confrontations heightened Native American political visibility. This opportunity was seized by a new generation of politically savvy Indian leaders who converged on the democratic system to secure legislation and policies favorable to renewed tribal sovereignty and self-determination. As Gross points out, one of the truly remarkable aspects of this process is the fact that on many occasions legislation favoring Indians was won at the perceived "expense" of the non-Indian constituency.

The final chapter is a summary discussion and analysis of the future of Indian politics. The author advocates a position supporting a future political scenario for American Indians which would build on the successful experiences of the 1970s. Specifically, more participation in the democratic process (lobbying, special interest groups, voter registration, Native American candidates, etc.) coupled with increased economic development and pro-growth policies. At face value, these appear to be reasonable suggestions, however it must be pointed out that economic development opportunities are sorely limited for most tribes, and formidable structural, legal and political barriers block development. While acknowledging the political realities of Indian Country, one must also question the underlying assumptions inherent in embracing the democratic model at the expense of traditional Indian political systems. The ambivalence of Native Americans to whole-heartedly adopt this scenario is understandable in light of the cultural and economic devastation caused by generations of assimilation policies. The culmination of these assimilation policies was to attempt to terminate the federal trust responsibility for all federally-recognized tribes, beginning with the those judged to be economically self-sufficient and highly assimilated (e.g. Menominee and Klamath).

*Contemporary Federal Indian Policy Toward American Indians* is essential reading for area specialists. This is among the finest contemporary Indian policy studies written, it is well-documented and elegantly argued. By combining thorough research with interviews from elite Indian policy specialists, Gross is able to make a unique and substantial contribution to the literature of contemporary Indian policy. **Beth R. Ritter**, *University of Nebraska-Omaha*.