discarded loose change. Deloria's patient and pleasant preoccupation of finding and saving small items overlooked by others reminds me of his assemblage of stories for this book. He found them and stored them away for future use. Eventually these bits and pieces fit into a pattern of thought about the spiritual past. What makes his method significant is that The World We Used to Live In is the last book Deloria completed before he died. It is a collection of stories that he kept in his pocket over the years, stories that concerned him throughout his life—stories of American Indian spirituality. This book is a treasury of observations on the wisdom and experience of medicine men from several native cultures. It's our parting gift from Vine.

**REVIEW ESSAY by Steve Russell**

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

by Dalia Tsuk Mitchell
Cornell University Press, 2007

As an Indian graduate of a top-twenty law school that offered no course in federal Indian law, I found it necessary to teach myself some really esoteric doctrines that could have real impact on my life for as long as tribal enrollment retains any meaning. One of the first things a person in my position discovers, even today, is "the Bible": Felix S. Cohen's *Handbook of Federal Indian Law*. In our time, Cohen's name is part of the title and the updating is normally handled by a panel of American Indian lawyers. In Cohen's time, during the coming of the Indian New Deal, he was in fact the lead author, and bouncing back to our time it quickly becomes a head-scratching puzzlement "how a Jewish guy from New York became the guru of federal Indian law" (ix).

Dalia Tsuk Mitchell, a law professor at George Washington University whose first language is Hebrew, came to wonder the same thing, and she spent years in Cohen's papers searching for the answer. This book is the result, and it comes at a time when the intellectual enterprise that led Cohen into Indian law and policy is in the face of every Indian lawyer who hopes to defend tribal sovereignty from foes of Indians (who call it economic advantage based on race) and friends of Indians (who call it social disadvantage based on race). "Friends of Indians," history teaches us, should never be confused with Indian allies, among whom Cohen was a giant.

Indian law, it turns out, became Cohen's focus because of the tasks put before him during John Collier's tenure at the Department of the Interior and because of the Indians he met in the process of discharging
those tasks. I think it is safe to characterize Cohen as pro-Indian like Collier, but less paternalistic than Collier in pursuing policies. Cohen’s life work revolved around what currently travels under the trendy buzzword diversity, but is better styled legal pluralism out of respect for the intellectual roots of the core concept of multiple sovereignties with more horizontal relations than vertical.

While serving the New Deal, Cohen fought losing battles on behalf of Jewish refugees fleeing genocide and on behalf of Alaska Natives trying to maintain fishing rights against the claim that absentee-owned corporations could exploit Alaska’s fisheries more efficiently. On the American Indian front, he won some battles and lost some, but he always held fast to the position that tribal governments have a place within U.S. federalism no less significant than state governments, and certainly never subservient to state governments. The existence of Public Law 280 is evidence that Cohen sometimes failed, but he succeeded in committing the U.S. government to a historical/legal paradigm that remains more or less in place to this day, requiring diminutions of tribal power to be done in an explicit manner just as grants of federal power under the originalist view of the Constitution must be explicit.

Most of what we know about Indian law today was born in Cohen’s pluralist vision of tribal self-government and federal obligation, two policies that Cohen did not consider at all inconsistent. He believed in a jurisprudence of group rights more or less independent of obligations as between groups. As, for example, in labor law, where he argued for broad union control over funds, subject only to the “requirement that the unions act as trustees both for their members and for the community at large” (55). Such a regime would allow “to the union the opportunities for error from which self-discipline and political genius may emerge” (55).

Cohen argued for group rights in a time of individual rights, and that is the fate of the Indian lawyer today. Indian tribes, he held, may have had their external sovereignty extinguished (meaning primarily their power to raise armies and conduct foreign policy independent of the United States) and could have their internal sovereignty limited by Congress acting explicitly under the authority usurped in the early John Marshall opinions, but unless and until Congress acted Indian tribes possessed inherent powers of self-government as if they had never been colonized.

Mitchell documents Cohen’s wars with his colleagues at the Department of the Interior and more often with the Department of Justice, where the litigators “wanted to know what limited obligations the government had toward Indians, not what Indian rights were” (167). "Justice wanted a book explaining how to win Indian cases, not an exegesis of the development and theoretical underpinnings of federal
Indian law" (168). Cohen, always the philosopher as well as the lawyer, was so far from giving them what they wanted that it is a miracle the Handbook ever saw the light of day with its insistence that federal Indian law "was based on four principles: the political equality of races, tribal self-government, federal (rather than state) sovereignty in Indian affairs, and governmental protection of Indians" (172).

Reading Mitchell's tale of bureaucratic wars in which Cohen was often the lone voice representing the interests of my relatives, I was struck by how much things remain the same. The perceived conflict between Indian sovereignty and Indian dependence remains. The difficulty of respecting Indian individual rights without abrogating Indian tribal rights remains. Indian intellectuals today remain "desperately striving to reconcile relativism in thought with universalism in ethics. In the early 1930s, many of the (legal) realists, Cohen among them, saw a middle ground in pluralist legal theory and its emphasis on collective institutions as the basis for legal and social analysis" (115).

Cohen struggled in his time against "one size fits all" Indian policy, just as we do today. "For him, tribal governments and other collective institutions could not survive without 'the community of consciousness' that they reflected. Above factionalism and assimilation, both of which threatened the continuity of any organization, lay Cohen's pluralist vision" (137).

Mitchell's telling of Cohen's career is a must read for American Indian intellectuals—that is, Indians who think theory matters. In our time, we fight our own battles, but there is no need to reinvent the thoughts of our late Jewish ally. All of us who find ourselves thrust willy-nilly into the sovereignty wars because of where we come from stand on the shoulders of the Felix S. Cohens as well as the Vine Deloria Jrs. It's an honorable place to stand, and this book illuminates many of the reasons why.

---

REVIEW ESSAY by Robert Keith Collins

Matter, Magic, and Spirit: Representing Indian and African American Belief

by David Murray
University of Pennsylvania Press, 2007

From courageous thinking, thorough scholarship, and intellectually stimulating analysis, David Murray presents a must read with his latest work, Matter, Magic, and Spirit: Representing Indian and African American Beliefs. Through the engagement of a remarkable amount of literature from the fields of American Indian studies, African American studies, religion, anthropology, and works of American Indian and African American writers and artists, this unique book