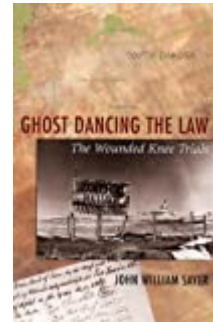


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John William Sayer. *Ghost Dancing the Law: The Wounded Knee Trials*. Cambridge, Mass.: Harvard University Press, 1997. ix + 310 pp. \$29.95 (cloth), ISBN 978-0-674-35433-3.



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Historicizing a Political Trial

This account of the conspiracy prosecutions of Dennis Banks and Russell Means for the 1973 occupation of Wounded Knee draws a comparison of the situation of post-occupation AIM Indians to that of Vietnam draft resisters: “as those who had protested and resisted America’s intervention in Southeast Asia read how it was they who had caused the deaths of over 50,000 Americans, they entered another war, one over the ownership of history, a war in which Native Americans had been involved since the European invasion” (p. 215). Sayer’s book is notable, among all that has been written about Wounded Knee, for its foregrounding of current issues in history and cultural studies: “‘History’ must do more than legitimize the old narratives ... it must also challenge what is ‘known’ by the contemporary audience ... writing recreates the possibility of new action” (p. 232). One strategy in Sayer’s defense of the use of the courtroom as a forum for political debate (p. 230) is his skillful interweaving of trial narrative with references to simultaneous developments in the Watergate scandal.

This is an account that needed to be written. At least two books, *The Trial of Leonard Peltier* by Jim

Messerschmidt and *In the Spirit of Crazy Horse* by Peter Matthiessen, recount in detail Peltier’s controversial conviction for the deaths of two FBI agents on the Pine Ridge reservation in 1975, but no one has written about the Banks/Means trial in such a detailed and scholarly way. The author is a fellow at the interdisciplinary Institute for Legal Studies at the University of Wisconsin (Madison), but readers need not be apprehensive about encountering the technolegal verbosity often found in law reviews. Sayer writes readable and often eloquent prose. The meticulous notes contain only the most significant legal citations; Sayer’s research is primarily from court transcripts, newspaper accounts, and an impressive collection of interviews with participants.

Media scholars and AIM scholars will find no startling or controversial conclusions here. Sayer finds that national attention to the Wounded Knee occupation and its aftermath was impaired by Watergate, and that the media neglected the factual issues being tried by depicting a scene of charismatic figures engaged in gladiatorial combat. To be fair, newspaper reporters had plenty of temptation for the infotainment approach. They had

before them not only Russell Means, but William Kunstler, who was still fighting contempt charges and disciplinary action from his advocacy at the Chicago Seven trial. Though federal judge Fred Nichol was sympathetic to AIM objectives and was trying hard not to be cast as the villain played by Judge Julius Hoffman in the Chicago Seven trial, Kunstler nevertheless ended up spending a night in jail for contempt. As for AIM, Sayer stresses that an overwhelming percentage of acquittals in a massive prosecution of multiple counts against multiple defendants does not equal victory for the defendants. The supply of lawyers and resources they started out with dwindled to a trickle from 1973 to 1975, and AIM lost its drive and focus as its leadership spent months in court.

Though Sayer criticizes the media for ignoring the multitude of prosecutions of less prominent defendants across Iowa, Nebraska, and South Dakota arising out of AIM actions at Pine Ridge, Sayer devotes most of his

book to a narrative of the eight and one half month Banks/Means trial in St. Paul. One could ask for more detail on the outcomes for the many other defendants, more on the FBI agents provocateurs who receive only passing reference, and more on the egregious circumstances of the deaths of Raymond Yellow Thunder and Wesley Bad Heart Bull that started it all. But these are minor concerns. It is a historical event in this country when a criminal prosecution in a political case is dismissed due to prosecutorial misconduct, and the story here is well told.

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