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Review of Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America

Alexandra Page

OJ Counsel, Alexander, Berkey, Williams & Weathers

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Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America. By Robert A. Williams Jr. Minneapolis: University of Minnesota Press, 2005. xxxvi + 270 pp. Notes, index. \$18.95 paper.

In *Like a Loaded Weapon*, Robert A. Williams Jr. argues that reliance by the courts on racist precedents

from the nineteenth century perpetuates racism against American Indians and prevents Native tribes and nations from vindicating their human rights, both under the law and in society more broadly. Taking his title from a dissenting opinion in the infamous 1944 *Korematsu* decision of the Supreme Court, which upheld the forced relocation and internment of thousands of Americans of Japanese descent during World War II, Williams cogently demonstrates how racially biased patterns of language and belief incorporated into legal opinions pose a deadly threat to human rights.

To help the reader understand the outright repugnancy of the judicial precedents he attacks, Williams strings together some—but by no means all—of the most egregious examples of the Supreme Court's racist language about Indians. The seriatim presentation of these excerpts will likely jolt even practitioners of federal Indian law, who know the cases all too well and confront them regularly in their work. Those not familiar with the cases are likely to be shocked that this kind of language is still routinely cited by the courts as "good law." Of course, the justices are not ignorant of these rulings' offensiveness. In a particularly compelling exercise designed to highlight this awareness, Williams reprints next to an ugly excerpt from a nineteenth-century ruling part of an opinion later written by Chief Justice Rehnquist in which the justice quotes the passage at length while simply omitting the most glaringly racist words and phrases.

The rulings of the Supreme Court provide fertile ground for Williams's project and more than ample support for his thesis. Locating the justices of the Supreme Court within a broader American culture that stereotypes and fundamentally misunderstands Native people, Williams stumbles only occasionally. For example, a popular children's doll he repeatedly derides for perpetuating stereotypes was in fact developed in collaboration with the Nez Perce tribe and has been embraced with pride by Native people, including the tribe's cultural arts coordinator, who believe its historically accurate and culturally detailed backstory and accouterments serve to dismantle such stereotypes.

Nonetheless, it would be hard to disagree with Williams's premise or with his conclusion that international human rights law offers a hope for Indian tribes, nations, and advocates to surmount the racist foundations of federal Indian law in the United States. As he points out, international law formed the basis for the earliest jurisprudence on Indian rights in United States law, and it is increasingly—albeit under strenuous protest from certain members of the Court—acknowledged as a legitimate

source of authority in the contemporary jurisprudence of the Supreme Court. The justices cannot be forced to adopt international principles in their decisions, but they can and should be made to confront them. **Alexandra Page**, *Of Counsel, Alexander, Berkey, Williams & Weathers LLP, Washington, DC.*