

BOOK REVIEW

Law and Aboriginal Peoples in Canada, 4th edition

by David W. Elliott

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A significant virtue of a new edition of a textbook in the law regarding Native peoples in Canada is the inclusion of recent cases and developments in this rapidly changing field. But this work, by David Elliott, Associate Professor of Law at Carleton University, has value far beyond its timeliness. Its distinguishing characteristic is its accessibility to people outside the legal profession and to students beyond those who are pursuing professional studies in law school. It is, in fact, two books in one.

It is part casebook, of a nature every law student or law school graduate will be familiar with. This section comprises slightly more than half the book, the second half. In addition to court decisions, this section includes relevant legislative and Constitutional provisions, governmental policy statements and agreements, and perspectives by Native elders and leaders. But it consists primarily of court decisions.

Few professors will ever be entirely happy with the way court decisions are edited in any casebook, and each person would edit them

somewhat differently. But these cases are sensibly edited, allowing access to the growing body of law regarding Native peoples in Canada and making the work suitable for professional studies in law schools.

The first half of the book, however, makes the work accessible to those outside the legal profession. This section is narrative text, keyed to the materials in the second half of the book, explaining the court decisions and other materials and placing them within their historical context. This feature makes the work especially well suited for undergraduate courses in Aboriginal Law, and for an Aboriginal Law component of an introductory course in Native American Studies. It makes the work very useful for those in the private and governmental sectors who lack formal training in the law but who must acquire knowledge in the field for business or governmental purposes. And it makes the work very helpful for attorneys who find themselves involved in this field without much prior knowledge of it.

The same reasons that make the work more accessible for anyone interested in Aboriginal Law make it less suitable for the Socratic method of teaching favoured by many faculty in professional legal studies, where law students traditionally are required to puzzle out the meaning of cases for themselves, with little help from any quarter, either from the casebook or the professor, and to be prepared, at their peril, to answer detailed questions about the cases in class. The narrative sections of the text explain far more about the cases than is common in law school casebooks. Befuddled law students using a more traditional casebook likely would find the narrative sections useful in more easily understanding the cases they are reading, but law professors who believe in the Socratic method are generally indifferent to student befuddlement as an occasional byproduct of students puzzling out the cases for themselves.

In any event, regardless of how much or how little explication might be available, court decisions will never be easy reading, and the law

will never be an easy field of study. This work, however, makes the topics less difficult than they often are.

It is possible that law school might have changed somewhat in the decades since I endured it, but I doubt it. Prospective law students might do well to examine this text in light of it likely making the topics a bit too accessible and too easily understood for the taste of many law professors, and, if nothing else, have a sobering moment of contemplation regarding what is in store for them should they go to law school. Even in my day, it was said that there were some law professors who might have welcomed a text such as this, but their classes always filled too quickly and so I have no firsthand knowledge of that.

Those familiar with the earlier editions of this text, particularly the most recent 3rd edition in 1997, will be interested to note that the work has been expanded from 320 pages to 392 pages in this new 4th edition, while retaining essentially the same format.