BOOK REVIEWS AND REVIEW ESSAYS

Michael Asch: Home and Native Land: Aboriginal Rights and the Canadian Constitution. Toronto: Methuen, 1984. 156 pages.

This book is basically an argument for the entrenchment of aboriginal political rights in the Canadian Constitution. Asch builds his argument by reference to public policies and legal doctrines that have historically dominated Native affairs in this country. He also draws on the political experiences of other liberal democracies such as Belgium and Switzerland in accommodating cultural minorities.

The book is succinctly organized into seven highly readable chapters, each including a helpful summary. The volume also contains an appendix, a list of suggested readings, a bibliography, and a section containing legal cases and statutes referred to in the text; all of which makes for a comprehensiveness not matched in many books of its kind.

The first chapter is devoted to definitions. The usual distinctions between "status" and "non-status" Indians are made, along with proper meanings of "Inuit" and "Metis." The critical definition for Asch, of course, involves the meaning of aboriginal rights. Asch makes it clear that aboriginal rights exist, and that the salient issue facing Natives today is what "aboriginal rights" entails. Asch is specifically concerned with aboriginal "political" rights and the proper mechanisms for ensuring that such rights are recognized and negotiated. The importance of defining aboriginal rights is underscored by the fact that Natives are closer than any time in recent history to having their rights explicitly acknowledged by the Canadian government.

Chapter two examines the common images and stereotypes of Natives that prevent non-Natives from recognizing the strengths of Native cultures. As Asch points out, the ability of aboriginal peoples to withstand decades of discrimination and mistreatment is testimony to their determination to decide their own future.

NATIVE STUDIES REVIEW 1, No. 2 (1985), 107-110.

Chapter three entails a discussion of some current thinking about aboriginal rights. Asch's own position is that "aboriginal rights can be described as encompassing a broad range of economic, social, cultural and political rights. Of these, the notion of a land base within a separate political jurisdiction is fundamental." (p. 30) Moreover, the inclusion of a clause on aboriginal rights in the new Constitution "symbolizes the recognition of legitimate claims to political rights analogous to those found in colonial situations." (p. 374). As a result, proposals for aboriginal self-government such as those put forward by the Dene are not only legitimate political expressions but workable and not at all inimical to liberal democracy in Canada.

Chapter four deals with several contentious legal questions. The landmark Calder case (1973), which established in law the principle of aboriginal existence before European contact, is discussed in detail. Aside from documenting the ethnocentric nature of Canadian law, the chapter reminds us (lest we forget) that the courts may be the final arbiter in the struggle for aboriginal self-determination.

Chapter five is devoted to a discussion of federal government policy on aboriginal rights, culminating in the 1983 First Ministers Conference. To Asch this event marks a significant shift in federal policy. Previously, government regarded aboriginal rights as a transient issue that would lose significance as Natives became assimilated into the broader Canadian society. The infamous White Paper of 1969 advocating rapid assimilation symbolized federal Indian policy prior to the 1983 conference. After the conference, and as a result of the strengthening of Native political organizations, government began to acknowledge that aboriginal peoples should be given some sort of self-government.

Chapters six and seven contain Asch's main argument: that Native proposals for self-government can be accommodated within the Canadian liberal democratic system without jeopardizing or weakening the power of the federal or provincial governments. Asch's argument rests in part on the analogy he draws between

the status of minority groups within the political system of Switzerland and Belgium and what might be possible for Canada's Natives. He points out that Belgium and Switzerland represent examples of the successful accommodation of minorities within nation states. Moreover, this accommodation has not weakened the respective governments' power or integrity. Finally, he points to the "French fact" in Canada. That is, Quebec has been accommodated within Canadian Confederation, perhaps not as well as some Quebecois would prefer, but, generally speaking, to the satisfaction of the country as a whole. Asch feels that the Canadian Government can do the same for aboriginal peoples.

In his book Asch has tackled one of the most important political issues in contemporary Canadian history. Without question he is right to argue that the Canadian Confederation is incomplete without the full entrenchment of Native political rights. Natives have an unassailable claim to special political rights, as supported by anthropological, historical and legal evidence. His recommendations for dealing with the Dene and Nunavut proposals are practical, although even as Asch himself admits, these proposals are not perfect. What is important is the willingness of the new federal government to take aboriginal claims seriously.

Although highly valuable, the book is not without problems. Certainly the difference between the minorities in Belgium and Switzerland and Native Canadians make comparisons tenuous. As an anthropologist, Asch must be aware of the dangers implicit in cross-cultural comparisons. Despite such methodological difficulties, however, this kind of comparison illustrates that Canada can learn from the experiences of other countries.

In the end result Asch provides a well-reasoned argument for aboriginal political rights. The most challenging aspect of the argument is the author's effort to question whether or not Canada's liberal democratic ideology is flexible enough to accommodate the rights of its first people. To answer this question he forces the reader to take into account the political experiences of other liberal democracies and apply them to the problem of Native rights as it exists in Canada. Asch is asking

that we find a political solution to what is basically a political problem.

John R. Minnis

Daniel Raunet: Without Surrender, Without Consent: A History of the Nishga Land Claims. Vancouver/Toronto: Douglas and McIntyre, 1984. 244 pages

The Supreme Court of Canada's 1973 judgment in the Calder case regarding the Nishga's claims to aboriginal title over their traditional territory constitutes a landmark in the development of a land claims policy by the federal government. The failure of the Supreme Court in the Calder case to specifically reject the doctrine of aboriginal title raised the possibility that if aboriginal title were affirmed by the judiciary in subsequent cases the potential claim settlements that might be awarded could exceed the government's capacity to fulfill them. To avert this eventuality and to counter the pressure from the New Democrats and Conservatives in Parliament to do something about Native claims, the government announced its intentions to institute a process to settle Native land claims in those parts of Canada not covered by treaties. In 1984 the federal government established a Native Claims Office.

In his book, Raunet provides a history of Nishga land claims both before and after the Calder case. His historical analysis, however, goes beyond the land claim issue, and in doing so, he provides some penetrating insights not only into the clash of cultures that has marked the Nishga's relationships with the dominant European-based society, but also the contemporary social, economic and political pressures faced by the Nishga nation.

Raunet builds his historical analysis of the Nishga's land claim on the assumption that the Nishga people have been treated unjustly by both the federal government and the government of