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Book Review: A Canadian Indian Bibliography 1960-1970

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BOOK REVIEW

A Canadian Indian Bibliography 1960-1970, by Thomas S. Abler, Douglas E. Sanders, and Sally M. Weaver. University of Toronto Press, Toronto, 1974. Pp. xvi, 732. \$35.00.

Canadian natives are experiencing events closely paralleling developments in the United States affecting services to and rights of Indians and other natives. In Canada the policy shift has resulted in much new litigation and hearings before special commissions and committees. Suits for staggering sums of money or recovery of vast acreages of land previously lost under Indian and Eskimo treaties are before Canadian courts. Many of these suits rival in complexity and evidence any heard before the United States Indian Claims Commission. Searching policy review of native affairs is being made and/or forced, especially concerning the large Metis population who have been landless and unrecognized as Indians since the Riel rebellion in 1885.

Any American lawyer who thinks United States Indian legal citations are difficult to locate and a mystery all their own should try legal research on Canadian Indians, Metis, and Inuit (Eskimos). The publication of *A Canadian Indian Bibliography* comes at an opportune time in the legal affairs of Canada's native people.

This book is actually two books in one. The first is an annotated bibliography of scholarly cultural materials published during the ten-year period concerning Canadian Indians and Metis. The second is a native affairs Case Law Digest 1867-1972, separately indexed. The whole represents the results obtained by 14 researchers working for the Canadian Indian Bibliography Project.

The usefulness of the bibliography is greatly increased because the items which are difficult to obtain are annotated to show where they may be examined and what their availability through the mail is. In addition, unpublished material collected by the staff was deposited in two national libraries.

The ten-year general compilation made by Abler and Weaver, who are members of the Department of Sociology and Anthropology of the University of Waterloo, contains, 3,038 abstracts. Of particular interest to lawyers are the divisions on economics (55 abstracts), history (102), Indian administration and government policy (313), legislation (109), and politics and law(28). Under these headings lawyers will find most of the familiar Indian legal materials such as governmental reports and surveys, legislative committee reports, various policy speech reprints, and articles in legal and other journals.

The Case Law Digest section of the book was prepared by Douglas Sanders, a lawyer and director of the Native Law Centre at Carleton University, Ottawa. The difficulty he had in locating Canadian case authorities on Indian affairs can be appreciated when it is realized that Sanders' portion of this Canadian bibliography contains only 142 case digests (plus six late arrivals set out in his introduction). Twenty of his digests are of unreported cases. Nine other cases appear in reporters published only in French. In comparison, Kenneth S. Murchison, *Digest of Decisions Relating to Indian Affairs, Vol. I, Judicial*, House Doc. 538, 56th Cong., 2d Sess., published in 1901, contains 3,826 digests of legal rulings in United States reported Indian cases. The Table of Cases in Frank B. Horne's 1958 revision of Cohen's *Federal Indian Law* lists just under 1,600 case citations to published court decisions.

Relatively speaking, this Canadian Indian bibliography is much more comprehensive for current Canadian materials than available bibliographies are for current United States materials. The two volumes of the Native Rights Fund's *Catalogue, An Index to Indian Legal Materials and Resources* (1973-74, 1974-75), prepared by the National Indian Law Library, Boulder, lists a total of 1,301 items and is considered by most lawyers as the best available on United States current Indian affairs.

American legal researchers accustomed to the high level of usefulness of the headnotes in West Publishing Company's reporter system and its *Decennial Digests* might criticize some of Sanders' highly concise abstracts of the cases. However, because of the relatively small number of the cases available, they are competent for the purpose. A collection of more elaborate digests of Canadian cases on Indian affairs is contained in the Indians and Eskimos section of the *Canadian Abridgment, 2d Ed.*, but that many-volumed set is much more expensive than this single volume. It should also be noted that Sanders' case digest includes a number of cases not in the *Canadian Abridgment, 2d Ed.*, and vice versa.

Those assembling a basic law library on Canadian natives will also want to acquire other materials in addition to this bibliography. A guide to early material is available in F. W. Hodge, *Handbook of Indians of Canada*, Appendix to the Tenth Report of the Geographic Board of Canada, 1912, 2 George V, Session Papers No. 21A, A. 1912. While this book is a gleaning of Canadian materials from Hodges' more comprehensive two-volume work, *Handbook of American Indians North of Mexico*, Bulletin 30 of the Bureau of American Ethnology, it has several added appendices and maps which are essential to a basic concept of Canadian Indian treaties. A guide to

current materials since 1970 is available in the publications list of the Canadian Association in Support of the Native People, Toronto (formerly Indian-Eskimo Association of Canada). The association both reprints and supplies on microfiche important speeches, position papers, hearings, surveys, court decisions, and the like similar to the materials in *Indian Law Reporter*, published by American Indian Lawyers Program, Inc., Washington, D.C. The reprints must be ordered individually rather than on a subscription basis. Current legal events can be followed by subscribing to *The Native People*, a weekly tabloid published by the Alberta Native Communications Society, Edmonton. While the format is generally Canadian Indian, Metis, and Inuit news, much space is devoted to details of progress in pending lawsuits and governmental hearings affecting Canadian natives. The news content is much greater and there is no index, but the information is roughly equivalent to that available in the *American Indian Law Newsletter* published by the American Indian Law Center at the University of New Mexico. Back issues of *The Native People* are available on microfilm from Xerox.

A Canadian Indian Bibliography, 1960-1970, is the first stopping place in preparing any comparative American native legal study involving Canadian natives and it is the best available single-volume index to recent Canadian Indian and Metis legal authorities.

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BOOK REVIEW

And The Land Shall Provide: Alaska Natives in a Year of Transition, by Lael Morgan. Doubleday. 1974. \$10.00.

And The Land Shall Provide by Lael Morgan contributes to an unusual perception of the natives of Alaska, themselves an unusual and perceptive people who occupied this land before domination by Western civilization. The book was prompted by a major change in the power structure and economy of Alaska and seeks to capture some measure of the natives as they moved into a year of major transition. The book is thus subtitled "Alaskan Natives in a Year of Transition."

In December of 1971, the Congress passed the Alaska Native Claims Settlement Act, granting to the Alaska natives \$465 million in federal funds, \$500 million in state mineral rights, and 40 million acres of land. Lael Morgan, a longtime resident of Alaska and a reporter for the *Tundra Times*, the leading native newspaper, took on the assignment of living with the native people, eating as they ate, and living as they lived, all toward the idea of achieving a perceptive approach to what the natives of Alaska were in 1972, and would be after the Alaska Native Claims Settlement Act began to have an impact.

This book describes the series of stays that she made with various native groups, together with a summarization of the history of the Alaska Native Claims Settlement Act and of the Alaska native people. Lael Morgan is a good reporter, a perceptive writer, and an engaging individual. Willing to take chances, involving danger as well as personal "put downs," she appears to have succeeded time after time to work her way into the hearts of the native people with whom she was staying. Her sympathetic and gently humorous views help explain why the villagers finally did accept her. In addition, her cheerful participation in the life of the natives, including the dangers of the harsh environment, the strikingly peculiar diets, and the living conditions of the villagers, took her far beyond normal reporting requirements and brought her into the hearts of the people she was reporting about.

Ms. Morgan notes that the anthropomorphism typical of any culture closely tied to its environment is present in the remote settlements about which she reports. For example, the playful sea otters were once humans, according to Aleut legend. Aleut trappers even today are impressed with the otters' humanistic conduct, particularly

in lovemaking—and the Aleut legend of their ancestors quietly continues.

Some wise if irreverent soul once noted that there has never been a statue erected in honor of someone who left well-enough alone. But even if there had been, it is unlikely such a totem would ever mark a point of contact between whites and natives in Alaska. Some of the results of not leaving well-enough alone are chronicled by Ms. Morgan.

In many ways, the most pressing problems faced by the natives of Alaska derive from the welfare aspect of today's society. Pressed by the white man's material goods, social pressures and, ultimately, laws, many natives have moved out of their traditional intimate relationship with their environment. The change has, however, not been successful for all. Too many natives have fallen afoul of the welfare state mentality in switching from dependence on the "old ways" of hunting, trapping, and fishing to new ways of living on the dole (a change made all too easy for some by alcohol).

Ms. Morgan writes in a unpretentious, easy style and does not purport to offer novel sociological, economic, or cultural insights. Indeed, it is the easy charm of her story that gives the reader a fresh appreciation of the natives of Alaska. In avoiding the obvious, she implies the subtle: ancient customs adapting to new cultures and new mass-produced products being adapted to ancient cultures.

From Ms. Morgan's writings, one does not derive a definitive history, a complete anthropological report, nor a cultural or legal analysis of the current state of the natives. Rather, and perhaps more important than any of these for her purposes, one is given a personal, subjective amalgam of experiences which justify the numerous implicit conclusions she reaches concerning the Alaskan native life and culture.

For lawyers, particularly those representing natives of Alaska—or indeed any Indian client—the principal value of this book may well consist of the insights it gives into the problems and psychology of clients who still live close to a land that is intolerant of mistakes but which can provide adequately to those hardy and knowledgeable enough to function on its terms. Certainly the book cannot be proffered as a legal reference in any normal sense. That is not, however, to denigrate its value to lawyers. Indeed, this very Law Review provides a unique service in combining such knowledge with the more traditional legal analyses found within its covers. For those who have the gratifications of representing Indian groups, the imperative of such representation is careful understanding of our clients' unique history, motivations, and objectives. In the case of Alaskan natives,

some of whom I have the pleasure of representing, motivations and objectives are complex, often unarticulated, and of overriding importance in guiding the lawyer seeking to serve his client's interest.

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