

Book Reviews

Managing the Water Environment, edited by Neil A. Swainson. Vancouver: University of British Columbia Press (in association with the Westwater Research Centre), 1976. Pp. ix, 256; \$15.50.

This book brings together a series of six papers presented at a seminar sponsored by the Westwater Research Centre of the University of British Columbia at the University of Victoria in 1973. It also includes two essays by the editor, and a foreword by Irving Fox, director of the centre. The result is a group of papers that sometimes speak of managing the the water environment, but more often speak of more general things, using water quality from time to time as an illustrative example. Most are not uninteresting, although some are a bit ponderous and even at times quite dull.

As Professor Fox points out in the foreword, and as most of the others repeat, the volume does not propose a definitive solution to the problem of allocating common property. Professor Swainson attempts in the first paper to define the problems associated with institutional arrangements for water-quality management. Here a number of interesting issues are brought forward, but a clear focus on the problem is not really among them.

R. T. Franson, D. Blair and R. Bozzer present a useful summary of the various pollution control regulations in British Columbia. While offering some comment on these measures, they do not get into such things as issues of regulation and compensation for losses or of what is assumed in the nature of property rights associated with cleaner environments or with waste discharge.

The issue of rights and the means and consequences of changing them is taken up only by Marc Roberts in an essay on "the complexities of real policy choice." Many readers, however, may want to question his assertion that "in our society we have generally assigned rights [to pollute] to the would-be polluter" (p. 165). Certainly an alternative view of property

rights belonging to society, or the government on its behalf, is at least as plausible both as a description of current attitudes and as a presumption for developing policies.

Roberts discusses, but almost in passing, the varied costs that might be associated with different approaches to pollution control. Others make no mention of this whatsoever, even though there is reasonable evidence that the course generally followed is likely to very greatly increase the costs of achieving any given level of quality. And related to this, but not discussed, is the continuing problem of choosing between "fair" requirements of equal levels of discharge reductions, which will greatly increase costs; or achieving economies by treating individual discharges very differently.

The short paper by John Dales will seem for many readers a much more clearly focused discussion. Most of his conclusions are not at all new but many will welcome his puncturing of balloons.

In all, the book brings together the worries and the proposals of people with somewhat varied backgrounds. It is useful to have many of these in one place. It is not, however, an easy and readable compendium for non-specialists, and for those with more experience in the area, there is not much which is new.

There will probably be for most people going through from the beginning, as well as most professionals who have worked on the problems, sympathy for what editor Swainson seems to say in his conclusions — that we may have talked enough about these things and it is time to try out some new ideas. However, elected and appointed officials still seem to find it easier to gravely express concern and to nudge things a little further on the present course than to alter directions. This might be changed if more people more clearly understood the issues. It is somewhat a pity that this book, in spite of its other uses, will not help much along this line.

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Environmental Law: A Study of Legislation Affecting the Environment of British Columbia, by John G. Ince. Vancouver: Centre for Continuing Education, 1976. Pp. 209; \$10.00.

This loose-leaf handbook on environmental law in British Columbia, produced in co-operation with the West Coast Environmental Law Association, is a worthwhile effort in bringing the law in a more intelligible form to the interested public.

Wasteful consumption and thoughtless destruction of the earth's air, land and water in recent years have raised the consciousness of many Canadians. The waste and destruction carried out as part of the public policy of "development" frequently result in injury to individual rights of property and a public interest in a clean and balanced environment. Hence a growing interest in "environmental" law.

Three different audiences share a growing interest in that specialized area of law and politics. The lawyer representing a private client suffering injury to a proprietary or other legal right is primarily interested in case law and statutory law. The civil servant and lawyers representing clients involved with new industrial development are largely interested in resource planning and allocation; statutes, regulations and departmental guidelines and policies are their chief concern. The private citizen or environmental group, concerned about the environment generally, is especially interested in finding out how to participate in policy or other decision-making at an early enough stage to influence its direction. The principal forum for this participation, apart from the media, and in the absence of statutory provision for public hearings, is the court.

Although the law does not encourage the use of courts to debate public policy, in specific instances a knowledge of the law may enable an application for an injunction or an order quashing the decision of some official. The conduct of such trials or court applications may have a general educative effect on the community and the bureaucracy in relation to specific issues and may influence or delay decisions to proceed with industrial development in particular cases.

In my view, each of the three audiences — the lawyer representing a client with a private claim, the civil servant planning resource allocation, and the environmental interest group striving to find some way of expressing the public interest in decision-making processes — has distinct interests and needs. It is difficult to write a handbook that will serve all three interests at once. *Environmental Law: A Study of Legislation Affecting the Environment in British Columbia* does try.

This is not a book that tells you "how to do it." Rather it is a summary of the main statutory provisions (the common law is specifically excluded) that relate to pollution in British Columbia. Despite its name, this is not a book that deals with environmental law in the wider sense of resource allocation, but rather it highlights the principal federal, provincial and municipal laws prohibiting the emission or dumping of wastes and effluents onto land or into air and water in British Columbia.

The 209 pages (including index) are divided into eleven chapters:

(1) Introduction; (2) The Constitution; (3) Laws of General Application; (4) Industrial Pollution; (5) Water Pollution; (6) Air Pollution; (7) Noise Pollution; (8) Land Pollution; (9) Radiation; (10) Protected Places (Parks); (11) Pesticides. The individual chapters, generally, are set out in different "parts," each dealing with federal, provincial or municipal enactments respectively, and a further "part" dealing with statutes specific to a particular industry, such as energy or specific to a particular source of pollution such as incinerators, railways or specific to a particular place such as harbours or waterbeds.

The main regulatory or prohibitory sections of the relevant statutes or bylaws are mentioned and frequent reference is made to regulations or the absence of regulations pursuant to the statutes. The book does not attempt to catalogue and cite all regulations but does refer the reader to a source where these citations may be found. Nor does the book attempt to summarize or even cite the growing number of important "guidelines" made pursuant to several federal and provincial statutes affecting the environment.

For the most part the text is descriptive rather than evaluative. Occasionally reference is made to cases; the author, however, does not attempt to provide an "annotation" of case law or commentary relevant to the various statutory provisions and legal issues. Thus the book provides a starting point in finding the relevant law; it does not purport to be a complete statement of the statutory law as interpreted by the courts. For the practitioner, a comprehensive summary of statutory law in Canada, together with references to the case law and review commentary, may be had in the forthcoming publication by Lucas and Franson.*

The concerned environmentalist may find the style of this B.C. handbook dry and legalistic. Also the organization may cause some distress to some readers: there are two introductory chapters dealing in a general way with the most important statutes; these are dealt with in more detail in subsequent chapters. Some readers may prefer to get all the law on a particular issue in one place rather than spread throughout the book.

The general reader, however, may well be amazed at the mass of "anti-pollution" laws already on the statute books. It would appear that in many instances there is no lack of broad laws prohibiting this or that type of pollution. Indeed, there may be too many laws conferring broad prohibitory and regulatory powers on officials and not enough laws permitting individuals and the public an opportunity to appear before boards and

* *Canadian Environmental Law* (Toronto: Butterworth's, 1976).

officials to speak to the issues before decisions are made. If there is "pollution" in spite of broad prohibitory and regulatory laws, it may well be because the resolution of resource allocation problems lies more in the political nature of regulating competing interests than it does in sanctions.

While the handbook concentrates on the prohibitory aspect of "pollution" legislation, it would be naive to assume that sanctions such as fines are effective deterrents in stopping waste and destruction of resources in the course of industrial development. Indeed, legislation aimed at protecting the environment must surely strive for planning and management, not prohibition in the use of resources. The fine or other sanction, such as the cancellation of a permit, is only a last resort after all effort at co-operation and persuasion have failed.

As long as "management" and allocation of resources, however, are left to civil servants to work out in co-operation with industry in a growth-oriented economy, many Canadians will question whether the public interest is properly taken into account. Hence the importance of public participation in environmental and resource management decisions. As this book makes so clear, however, there is little opportunity in law for such public participation. To the extent that the opportunity exists, it is more by way of the back door of criminal or civil prosecution, rather than the front door of early consultation through properly conducted hearings. An exception in this regard is the provision under the Pollution Control Act whereby the board may conduct hearings to determine guidelines for emission of pollutants in particular industries. When held, these hearings attracted little participation by the public; it would be interesting to learn why. On the other hand, the recent hearings on the issuance of a water permit to B.C. Hydro to build the Revelstoke dam attracted wide public interest, but the law provided a most inadequate legal means for the expression of such interest. Both law and political processes appear to be out of tune with the times in this area of social-economic growth.

KEITH JOBSON

The Enemy That Never Was: A History of the Japanese Canadians, by Ken Adachi. Toronto: McClelland and Stewart, 1976. Pp. vi and 456, illus.; \$14.95.

Two themes are intertwined throughout the course of this book: the history of Japanese immigration and that of Canadian racism. As the

author explains in his preface, he intended first "to reveal the demon [racism] in all its scaly ugliness and perhaps exorcise it," and then to tell the "story" of the Japanese in Canada. In particular Adachi concerns himself with the first half of the twentieth century, that period in which the Japanese community took root in British Columbia despite the recurrent animosity of west coast whites. The focal point of the narrative is the evacuation of 1942 — its origins, execution, and aftermath — an event which Adachi clearly believes to have been the central fact of the Japanese-Canadian experience.

The chief strengths of *The Enemy That Never Was* are the author's descriptions of the Japanese community. He discusses the culture from which the migrants came — its concepts of family and community, and its basic social values — and then examines the attempts made by the immigrants to preserve their traditions in Canada. When exploring this problem, Adachi places special emphasis on the role of the Japanese family system — authoritarian, patriarchal, and bound by complex conceptions of honour and obligation — in this process of cultural transfer. The Nisei, the second generation of Japanese-Canadians, are his particular concern. Through acculturation they abandoned the ways of their parents but they also found themselves shunned by white society. Substantially westernized but rejected nevertheless, they lived in the penumbra of both communities.

As Adachi reveals, the evacuation of 1942 uprooted this small but complex community. It forced upon the Japanese the dislocation of interrupted lives, the discomfort of relocation, and the disadvantage of property loss. To Japanese-Canadians, both individually and communally, it was a major discontinuity. The author carefully describes its impact upon them, noting their attempts to readjust themselves to post-evacuation conditions and their efforts to defend their mutual interests from continuing government aggression.

But if the book does contribute to describing the Japanese-Canadian past, unfortunately it also is marred by a number of serious flaws. For one thing Adachi's research is superficial. By and large the study is based upon official published records, newspaper sources, and secondary accounts, fleshed out here and there by the author's personal recollections. Major manuscript collections have been largely ignored, among the most glaring omissions being the Japanese-Canadian collection at the University of British Columbia and the Mackenzie King papers in Ottawa. This neglect is sufficiently serious that in places the book is unreliable. For example, chapter IX, which examines the events which led to the federal evacuation decision, should have drawn upon the broad range of manuscript

sources found in the Public Archives of Canada. How else could the decision-making process be revealed?

Perhaps more important, while Adachi dwells at length upon the problem of white racism, his chief purpose is to expose and condemn. As a self-acknowledged victim of racism, he does not occupy the best vantage point from which to analyse it. In any event, he is much less concerned with analysis than with judgment — from his perspective a quite understandable reaction. The problem is that this approach precludes a larger understanding of racism, particularly its complex motivation and mechanics. To choose a case in point, Adachi accepts the fact that racial prejudice underlay the evacuation decision without probing its roots, in particular the role of anxiety in inducing prejudice. Ultimately, then, we are left with no comprehensive explanation for Canadian racism, though we do know clearly what Adachi thinks of the phenomenon.

The most serious problem with this book, however, lies in the author's approach to the study of minority group history. To Adachi racism lies at the heart of the Japanese-Canadian past. While no one could deny that racism was part of the Japanese experience in Canada, the degree of its influence is indeed open to question. To what extent, and in what ways, were the immigrants affected by prejudice? What other social, political, cultural, and economic factors shaped their lives? In what ways was prejudice related to these other forces? Adachi's answers are unclear.

Moreover, Adachi's preoccupation with this theme has led him to neglect the analysis of other major questions. Two examples must suffice. First, while he describes briefly the origins and motives of the immigrants, he makes no attempt to explore systematically the socio-economic conditions in rural Japan which led to emigration. Nor does he offer anything more than passing comment on the chain migration process. Hence we must make do with a series of vague generalizations about the origins, nature, and initial objectives of Canada's Japanese immigrants. Second, he fails to address the question of acculturation, one of the fundamental problems of immigration history, with any degree of rigor. When discussing Japanese ethnocentrism he initially attributes it to the heightened racial pride of immigrants in an alien environment (109-110). Later he declares it to be a reaction against the racial prejudice of the host community (132). His treatment of cultural change is similarly limited. He declares that the Issei, or first generation, were only marginally acculturated while the Nisei were substantially so. But the mechanics and extent of this process are never discussed. Adachi goes to some lengths to emphasize Nisei acceptance of North American liberal individualism and

democratic ideals. Yet he also declares that the Japanese did not resist evacuation because their traditional cultural norms emphasized conformity and obedience (225-27). The very fact of this contradiction reveals the limits of his understanding of the acculturation process.

Thus, judged as minority group history, this is a book with limited merit. While the author has largely avoided the commonest pitfall of ethnic history — ancestor worship — he has fallen into the trap of representing his subjects as victims. That they were there can be no doubt. But the experience of Japanese-Canadians has been far more complex than this book reveals. Despite what Adachi seems to believe, the writing of immigrant history is neither storytelling nor exorcism.

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