

quickly. It is a tribute to Morley's style that at the end of each chapter, the reader finds himself wishing for more detail rather than less.

Morley's personal involvement in the processes he describes and his knowledge of the key participants has served him well in putting together a lively, analytical chronicle of the Ontario CCF-NDP to 1972.

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**CANADA . . . NOTWITHSTANDING** by Roy Romanow, John Whyte and Howard Leeson, Toronto, Carswell/Methuen, 1984, p. 286.

Does it seem odd that the opening section of Canada's recently proclaimed *Charter of Rights and Freedoms* begins by setting out the limitations of our constitutionally entrenched liberties? Canadians, so it seems, are to have their fundamental rights and freedoms guaranteed only to the extent that any infringement cannot be demonstrably justified in a free and democratic society — hardly an auspicious beginning for a document that purports to protect the individual against any capricious behaviour of the state. Yet, as *Canada . . . Notwithstanding* demonstrates, it is a very Canadian beginning and perhaps, not such a bad one at all.

This book takes the reader through the six long years of constitutional debate which began in 1976 and ended (temporarily at least) with the *Constitution Act, 1981*, including the Charter, being proclaimed into force April 17, 1982. Since rumours have begun to circulate that Premier Levesque is anxious to enter into a constitutional accord with Prime Minister Mulroney, the publication of this book is propitious. It reviews how the present accord was reached and how that agreement failed to include Quebec.

The authors of *Canada . . . Notwithstanding* are certainly well qualified to recount the events in question. Roy Romanow, as Attorney General for Saskatchewan, was a highly visible player throughout the discussions. He is particularly

remembered by most Canadians for his role in the so-called "kitchen cabinet" whose informal deliberations broke the impasse between the two camps — the federal government together with Ontario and New Brunswick on the one side and the eight remaining provinces ("the gang of eight") on the other. He is joined in this account by constitutional law professor John Whyte and political scientist Howard Leeson, both of whom acted as senior advisers to the Government of Saskatchewan during these crucial proceedings.

As might be expected, this work provides a detailed account of the various constitutional conferences, proposals and crises that resulted ultimately in the 1981 accord. What is perhaps surprising, but certainly rewarding, is the inclusion of a short, but thoughtful analysis of each of the various issues which faced the participants in the discussions. This feature, combined with a detailed table of contents and complete index makes *Canada . . . Notwithstanding* a valuable tool in researching recent Canadian constitutional developments.

The book focuses on the process of constitution-making; its concern is with the "raw bargaining" which took place during that period. Indeed, as the book documents, it is remarkable that a politically mature, bicultural and bilingual federal state composed of a strong central government and ten regionally diverse, politically disparate provincial governments was able to reach a compromise that satisfied all participants but one, Quebec. This process was not made any easier by the injection into the debate of the concept of entrenched guarantees of individual rights and freedoms. Nevertheless, as the authors show, the historical compromise was the product of a great deal of political effort and its significance should not be diminished merely because it lacks the rhetorical flourish of constitutional documents born under more dramatic (and usually more violent) circumstances. It remains to be seen whether the balancing of individual rights and freedoms against the reasonable limits of a free and democratic society diminishes the basic liberties of individual Canadians.

Quebec's failure to sign the agreement and Premier Levesque's accusations

of betrayal must be considered by any study of the 1981 constitutional agreement. To the authors' credit they address this major issue directly. This is done in two ways. First, it is their hypothesis that while Quebec was prepared to fight a constitutional war, it was never prepared to accept constitutional peace. According to this thesis, Quebec's political miscalculation was in failing to recognize the desire for a constitutional compromise which was shared by all the participants, including the gang of eight who opposed Prime Minister Trudeau at that final conference. But, so they argue, Quebec was not betrayed by its allies. The common front of opposition at the final conference was broken when Quebec agreed with a federal government proposal concerning the use of a referendum to resolve constitutional impasses; it was only after this initial breach over the referendum that a compromise was found. The second way that the authors address the issue is that they are explicit in acknowledging that the exclusion of Quebec, "presents a constitutional challenge that has not been met."

The book is not without its weaknesses. When discussing the participation of one of its authors, it employs very formal language which detracts from the narrative. Similarly, the failure of the authors to give any human dimension to the discussion is frustrating. Surely interpersonal relationships played some part in the dynamic of the bargaining process. It may be that the authors made a conscious decision to ignore interpersonal relationships which are often the focus of media reports in order to emphasize the importance of the policy debate.

*Canada . . . Notwithstanding* is a valuable book from many perspectives: it provides a summary of the major constitutional events of the period; it analyses the issues in question; and it documents how the historical compromise was reached. Most importantly perhaps, *Canada . . . Notwithstanding* reminds us that the 1981 constitutional accord was only a beginning to that uniquely cautious, Canadian approach to constitutional reform.

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