

The Culture of Flushing: A Social and Legal History of Sewage

by Jamie Benidickson. Vancouver: UBC Press, 2007, 404 pp.

The act of flushing could hardly seem more logical: sewage goes into the sewer, sewers take wastes away, and nature purifies the water. Yet, as Jamie Benidickson traces the social and legal history of sewage in *The Culture of Flushing*, this logic comes under sharp criticism. Benidickson's arguments for the adoption of new, ecologically sound principles in decisions regarding wastewater are timely and forceful; he presents a compelling comparative analysis of water quality regulations in Canada, Great Britain, and the United States.

The Culture of Flushing begins with a straightforward thesis: Contemporary social and legal institutions insulate us from the consequences that our "culture of flushing" has on water quality. Benidickson then develops two central themes regarding how this culture continues despite growing, substantive evidence that it is not ecologically benign. The first theme concerns the transition that took place as new, industrial processes challenged legal norms regarding the acceptable degradation of waterways. The second concerns the social and institutional shifts that occurred in North America and Great Britain as new attitudes toward wastewater were adopted in response to industrialization and urbanization.

Despite their differences, the early riparian doctrines of Canada, Great Britain, and the United States all lacked the capacity to adapt to the wastewater challenges posed by industrial society. Under riparian doctrine, individuals that owned property adjoining a watercourse were entitled to use water so long as there was no perturbation of the "natural flow." However, as new techniques in lumber milling, textile manufacturing, and urban sanitation increasingly polluted waterways, tensions arose regarding how to promote activities conducive to the greater social good while still respecting riparian rights. According to Benidickson, the solution was to adopt an

accommodating position toward pollution and a more instrumental view of water law.

Instrumental attitudes in water law are typified by the doctrine of "reasonable use," which estimates the acceptability of different water uses based on whether the costs and benefits are, on balance, in the best interests of society. What makes Benidickson's account particularly interesting is his identification of two myths regarding water purification that have consistently marginalized concerns regarding water quality: the myth that moving water naturally cleanses itself, and the notion that the ocean and other bodies of water are so large that their capacity to absorb pollution is unlimited. Benidickson's work demonstrates how these myths worked to support the idea that pollution, while not ideal, was considered a necessary aspect in the "reasonable use" of water.

In an engaging style, the body of Benidickson's work focuses on how water quality issues are perpetuated through social institutions based on flushing. Particularly relevant to Canadian policy-makers are examples from Edmonton, Montreal, Ottawa, and Toronto regarding the prioritization of water uses based on social values and nuisance laws rather than scientific criteria; the role of improved public infrastructure in increasing per capita water use, which made a virtue of independent, secure, and abundant municipal water supplies while neglecting concerns over wastewater; the standardization of civic plumbing in response to public health concerns, which facilitated a shift in responsibility for waste from the private to the public domain; and concerns over shared waters such as the Great Lakes and the effectiveness of the Canadian-US International Joint Commission in resolving water quality issues.

Influencing all of these issues is a gap between scientific knowledge and legal accountability for the effects of flushing. Benidickson identifies several arguments that have historically been employed to bridge this gap but which have, unfortunately,

separated the act of flushing from its ecological effects. For instance, the consequences of flushing have been seen in terms of creating a nuisance to the property of others rather than as degrading water quality. Benidickson explains how, once established, these legal precedents inhibit the ability of scientific findings to counter environmentally harmful activities. In a number of careful examples, particularly from Toronto and Chicago, Benidickson also demonstrates how prevailing social norms insulate the deleterious effects of flushing from close public scrutiny.

The final chapters of *The Culture of Flushing* look at attempts to challenge contemporary social and

legal norms, with particular attention given to conservation movements in Canada and the United States. These activities have opened important avenues for resurrecting riparian concerns regarding natural flow, thus questioning how “reasonable” flushing really is. In this respect, Benidickson’s conclusion levels a sustained critique of a legal and social culture in need of a new basis for wastewater policies congruent with both scientific knowledge and growing concerns regarding the protection of water quality in Canada and elsewhere.

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The Big Red Machine: How the Liberal Party Dominates Canadian Politics

by Stephen Clarkson. Vancouver: UBC Press, 2005.

Perhaps the biggest criticism of Stephen Clarkson's book *The Big Red Machine: How the Liberal Party Dominates Canadian Politics* is the subtitle. The book was published in 2005 at a time when it appeared that Liberal hegemony in electoral politics was unwavering. Despite defeat by the Conservative Party in the 2006 election, the Liberal Party of Canada (LPC) remains one of the most successful political parties in the world, governing for 78 of the last 112 years. The current status of the LPC should not dissuade students of Canadian politics from reading this book. *The Big Red Machine* is an accessible and detailed examination of the electoral successes and failures of the LPC over 30 years, written by one of Canada's foremost scholars of the party.

The Big Red Machine focuses on the electoral behaviour of the LPC over nine campaigns from 1974 to 2004. With the exception of the Introduction and Conclusion, the chapters were previously published and are revised to incorporate scholarly research and other data not available at the time of their original publication. By putting each of these previous individual chapters end to end, Clarkson hopes that we may "better understand not just how [the LPC] has come out on top of the heap in nineteen out of twenty-eight elections in the twentieth century but also what its prospects are for keeping this winning record into the twenty-first" (p. x).

The book is divided into four sections corresponding with the Liberal leader of the time and respective campaigns—Pierre Trudeau: Victory, Fall and Recovery (1974, 1979, 1980); John Turner: From Disappointment to Despair (1984, 1988); Jean Chrétien: Power without Purpose (1993, 1997, 2000); and Paul Martin: Saved by the Far Right (2004). While each chapter presents a particular argument about the campaign, a similar pattern of analysis does exist. Each chapter examines the key

elements of campaigning, such leadership, organization, strategy, policy, finances, advertising, media, and the results. Clarkson's exceptional research, including interviews and the use of public opinion data and media analysis, illuminates the story of each campaign.

Clarkson, rightly, points out that the dominant analytical framework for understanding Canadian party politics is the party system approach. This approach suggests that the evolution of Canadian parties is divided into a number of party systems, each possessing certain characteristics that distinguishes it from the others (i.e., number of parties, the approaches to seeking office, and party organization). There is scholarly consensus on the first three party systems; the first began at Confederation and lasted until the end of the First World War, the second from the 1920s to the 1950s, and the third party system began in the 1960s. Some scholars, namely Ken Carty, Bill Cross, and Lisa Young, argue that a fourth party system has emerged as a result of the 1993 federal election. Clarkson suggests this perspective is putative. In the introductory chapter, he briefly uses the approach to examine how the LPC went from a radical movement to the governing party under the leadership of Wilfrid Laurier through to Pierre Trudeau in the first and second party systems. The party system approach figures prominently in the analysis of the 2000 and 2004 campaigns where Clarkson critiques the fourth party system thesis and concludes that the LPC actions, in both cases, do not conform to the regionalized and democratic characteristics identified by Carty and colleagues. That said, the party system approach is not consistently used throughout the book. Overall, *The Big Red Machine* does lack a unifying analytical perspective. However, given that it was produced over three decades, this criticism is unsurprising.

What it is about the LPC that makes it Canada's hegemonic political party is the question of the final chapter. Through the examination of factors such as globalization and party systems, Clarkson suggests that the context in which the LPC operates has

changed dramatically. By putting each campaign end to end, it appears that the Liberals have, in fact, changed very little. The party of Mackenzie King and the party of Paul Martin are both “undemocratic and autocratic” (p. 281). Despite Trudeau’s call for more “participatory democracy” in the 1968 campaign, Clarkson shows that democratization of the extra-parliamentary wing of the LPC did not occur under Trudeau or any subsequent leader. The LPC is a “leader-centred organization” (p. 276), where the leader and his close advisors make decisions. Rank and file members have little input into campaign organization or policy formation. This lack of internal democratization is why, according to Clarkson, the LPC has remained successful. Certainly a provocative statement; however, not much

space is dedicated to fleshing out its rationales or implications in this final chapter.

By highlighting what has allowed the Liberal Party to dominate Canadian politics, *The Big Red Machine* also brings to light what may keep it successful. This book belongs on the shelf of anyone interested in Canadian politics. It is an insightful and scholarly read. Though the focus is on the Liberal Party, *The Big Red Machine* tells us much about the other parties, elections, and Canadian politics more broadly.

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A Question of Commitment: Children's Rights in Canada

edited by R. Brian Howe and Katherine Covell.
Waterloo, ON: Wilfrid Laurier University Press,
2007, 456 pp.

The *Convention on the Rights of the Child* (CRC) is one of the most ambitious and widely adopted international treaties, with signatories undertaking to give children "first call" on their resources and to promote their "best interests." This book reviews Canada's progress in meeting its obligations under the CRC. There are 14 substantive chapters written by different contributors, each addressing a particular area, such as child poverty or juvenile justice, with the editors writing an introduction and conclusion. The book provides a useful survey of child-related policy issues, as seen through the lens of provisions of the CRC.

Like the CRC, the book addresses a very broad range of topics. Much of the book is devoted to issues directly affecting children, such as child care, education, and child abuse prevention. The book also devotes significant attention to issues where children are affected in the context of their families and communities, such as aboriginal and refugee children. As the most vulnerable members of society, children suffer the most from problems that affect all of society, like income inequality, and a number of these problems are also discussed in this book. Truly addressing the needs and rights of all children requires a social transformation. However, the wide range of topics in the book results in some issues, such as the effect of environmental degradation on children, being addressed only superficially.

A basic premise of the book is that the CRC sets out a comprehensive and coherent agenda of rights, with the contributors tending to take an expansive view of its often vaguely articulated rights. The CRC recognizes different types of rights. "Participation rights" are exercised directly by children, such as the rights of youth charged with crimes. "Protection rights" impose an obligation on the state to pro-

tect children; often this means that the state's agents are in effect asserting a child's rights against the child's parents, who may be abusive or neglectful. Most ambitiously, the CRC articulates a significant number of "provision rights," imposing obligations on states to provide a range of services for children, for example for health or education. The CRC thus articulates very different types of rights, some of which may be in tension with one another. This volume gives little attention to the complexity and contentious nature of children's rights. There is, for example, only limited discussion of the challenges that the CRC poses in recognizing the best interests of the child as "a primary consideration" that must be balanced against resource limitations and other societal interests.

Although the CRC is cited by Canadian courts more often than discussed by politicians, as recognized by the authors, the primary means of enforcement of CRC rights is political. The CRC requires each country to report every five years to the United Nations Committee on the Rights of the Child, with the committee then providing recommendations for how CRC obligations can be better met. Each country determines how (or whether) to implement those recommendations, primarily through the political process. The book soundly advocates more education about the CRC and more effective national level monitoring and advocacy in Canada in order to increase public awareness and political pressure for effective implementation.

The contributors to this book review the recommendations of the UN Committee in each area, and add their own views on Canada's efforts. While there is significant variation in Canada's progress in different fields, as well as regional variation, the editors conclude that overall Canada has a "symbolic but wavering commitment" to the rights and needs of children. There has been significant progress in some areas in the 15 years since Canada ratified the CRC, but under the Conservative government the level of commitment has faltered. The wavering support is disturbing but not surprising, as the CRC imposes obligations on governments, including expectations for national standards for the provision

of services for children, while the Conservative tendency is to shrink the size of government as well as to reduce the federal role in providing services and setting standards. While the rights-based advocacy of the CRC is important, the book largely fails to consider the economic arguments for providing services for children that are likely to appeal to Conservatives; Canada's long-term competitiveness and wealth are dependent on making adequate investments in our children. It must also be recognized that policies that are not supported by a majority of parents are unlikely to be adopted, and supporters of the CRC sometimes ignore the role of parents as advocates for their children.

The book provides a valuable survey and has a strong analytical core, but readers should be cautious about relying on some portions of the text. Some of the chapters are balanced and thoughtful, such as those on Child Poverty and Children's Participation Rights. Other chapters, however, offer a somewhat doctrinaire left-wing analysis and provide

an incomplete picture of the issues being discussed. Perhaps the weakest chapter is on young offenders, which begins with a "global" perspective that features a critique of American maltreatment of children in Abu Graib prison and the issue of capital punishment of juvenile offenders in the United States. There are certainly good grounds for critiquing American policies and practices, but in fairness to that country, it certainly merits mention that in 2005 the United States Supreme Court ruled unconstitutional capital punishment of those who were juveniles when they committed an offence, in part relying on the CRC, even though that country has not adopted the *Convention*. The chapter also fails to mention the fairly extensive use that Canadian courts have made of the CRC to interpret youth justice legislation in this country in a way that limits use of custody and protects the privacy of juvenile offenders.

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Why Mexicans Don't Drink Molson: Rescuing Canadian Business from the Suds of Global Obscurity

by Andrea Mandel-Campbell. Vancouver: Douglas and McIntyre, 2007.

and

Northern Tigers: Building Ethical Canadian Corporate Champions

by Dick Haskayne (with Paul Grescoe). Toronto: Key Porter, 2007.

The current global wave of corporate takeovers and the growing competitiveness of multinational corporations based in “emerging” economies such as China, India, and Brazil have left much of Canada’s corporate establishment feeling under siege. Canadian businesses are seen to be “falling behind” in the competition to secure global markets. Despite the rapid growth of Canadian investment abroad, recent takeovers of several major Canadian-based multinationals have triggered alarm in some corporate circles—along with the creation of a blue-ribbon government task force on competition and foreign investment policies.

Two recent books argue for the need for governments to promote “national champions” capable of competing internationally and surviving in increasingly competitive markets for corporate control. However, they also demonstrate the sizeable differences that separate Canadian business nationalists from one another, let alone from both advocates and critics of market capitalism and of more liberal trade and investment rules.

Business journalist Andrea Mandel-Campbell’s *Why Mexicans Don’t Drink Molson* is a comprehensive indictment of Canada’s business and regulatory cultures and a sizeable swath of its corporate establishment. It accumulates a series of case studies and extensive anecdotal evidence to describe both the symptoms and deeper causes of Canadian firms’ frequent failures to establish successful international ventures beyond the United States. Mandel-Campbell contrasts these failures with the successes

of businesses that have established viable operations beyond North America, before drawing a series of recommendations for both businesses and governments to build and support “national champions.”

Retired corporate executive Richard Haskayne takes a very different approach in his “memoir and manifesto,” *Northern Tiger: Building Ethical Canadian Corporate Champions*, co-authored with veteran business writer Paul Grescoe. Haskayne notes his rise from small-town Alberta beginnings before describing his experiences at the helm of a series of Canadian-based resource giants. His well-crafted stories of managing or presiding over Hudson’s Bay Oil and Gas, Home Oil, Interhome Energy, Nova and TransCanada Corporations, Macmillan Bloedel, and Fording Coal as their president or board chair provide an insider’s perspective of both the competition for corporate control in Canada’s resource sector during the past generation, and the challenges of building internationally competitive firms that are not only based in Canada, but owned and managed by Canadians.

However, a desire to promote and protect internationally competitive Canadian firms is just about all that the two authors share in common. For Mandel-Campbell, international business success begins with transcending North American markets. She attributes Canadian businesses’ relatively small share of global markets to the relatively easy wealth available from producing and exporting natural resources; and to Canada’s proximity to the US market, with its relatively low-risk opportunities for profit without the challenges of having to penetrate unfamiliar legal or cultural environments (pp. 25-31). She also attributes the failure of many Canadian firms to develop an externally oriented culture to the protectionist mindset fostered by Canadian governments—often in collaboration with inward-looking business elites and producer coalitions (pp. 75-86). She points to evidence of this outlook in the regulatory “safety nets” intended to preserve employment and market share by resisting external competition or structural market changes in numer-

ous industry sectors (pp. 105-40). She sharply contrasts Canada's institutional weaknesses, relative cultural insecurity, and narrowly focused export performance with that of Australia in recent years—noting the latter's capacity to develop a strong, open economy with an internationally competitive corporate sector.

By contrast, Haskayne's assessment of the Canadian business world is shaped by his experience in the very environment scorned by Mandel-Campbell. Trained as a chartered accountant and working his way up the corporate ladder at a major Canadian-based but foreign-controlled energy firm, Haskayne's view of business reflects both his own experience and the culture and values of the Western Canadian business establishment of which he became a leading member.

Mandel-Campbell repeatedly emphasizes the cultural dimensions both of international competitiveness and of the ambition and drive necessary to build international corporate empires. She stresses the extent to which successful Canadian entrepreneurs tend to be foreign-born or from immigrant families (pp. 87-104), and that major Canadian firms often hire American-trained managers to run their operations (pp. 56-9). She contrasts the drive and ambition of these "champions" with the frequent difficulties of the traditional Anglo-Canadian business establishment in bridging cultural barriers with other countries. Along the way, she challenges their perceived lack of ambition, *chutzpah*, or *cojones* in taking calculated risks to expand their businesses abroad, and their frequent ethical squeamishness in not doing "whatever it takes to win" (p. 72).

In contrast, Haskayne's management ideal is that of the "organization man." He argues that successful executives need to be "ambitious for their companies—rather than themselves" (p. 253). Scorning the dismissive view of business ethics seen in recent corporate scandals (and sometimes reflected in Mandel-Campbell's view of the business jungle), he stresses that personal responsibility, loyalty, and high ethical standards are necessary elements for

effective leadership and business success. While Mandel-Campbell might view Dome Petroleum's Jack Gallagher and Olympia and York's Paul Reichmann as risk-taking paragons of entrepreneurship, Haskayne portrays them as object lessons of financial and managerial overextension—and of the risks of growth for growth's sake.

Mandel-Campbell's prescriptions are strongest in addressing the management priorities of internationally competitive businesses. She emphasizes the importance of cross-cultural training for managers, recruiting Canadians (especially immigrants) with transcultural connections and skills, effective business planning—particularly in identifying and managing foreign business risks, and staying the course long enough to build strong relationships and credibility in foreign markets (pp. 243-64). These suggestions might be seen as simple common sense—except for the extensive anecdotal evidence she provides of the elementary failures of major Canadian businesses to apply them in their ventures into foreign markets (pp. 141-69).

However, her policy proposals are often internally contradictory, reflecting a confused mixture of libertarian and mercantilistic prescriptions. Foreign takeovers are seen as symptoms of Canada's failure to compete, but governments should remove barriers to foreign competition and market entry while promoting Canadian corporate champions. Canadian multinationals should expand their business operations in other countries, presumably recruiting the brightest, most ambitious management talent they can find. But Canadian multinationals run by foreign nationals—like Alcan's Dick Evans or CN's Hunter Harrison—are consistently portrayed as less than fully Canadian. Canada's history of sweetheart deals between governments and particular corporations and business sectors has insulated the latter from the need to compete internationally, but governments can and should "pick winners" on the basis of profitability (p. 292), fill market gaps (pp. 294-5), or use "sectoral advisory committees" of executives from leading firms (p. 300).

Mandel-Campbell's proposals for large-scale constitutional reforms to centralize the Canadian federation along Australian lines, thereby facilitating the creation of a national economic strategy, verge on wishful thinking. Her suggestion of unilateral federal action to eliminate provincial trade barriers and rewrite the 1867 constitution's trade and commerce clause demonstrates a blithe ignorance of constitutional law and a historical amnesia that neglects the destructive legacy of Canada's 20-year constitutional root canal.

Haskayne's description of "Northern Tigers"—"homegrown, domestically based companies . . . strong and nimble enough to withstand takeover attempts from foreign interests" (pp. 9-10)—is similar to Mandel-Campbell's, but more inclusive in the sense that it accommodates both leading Canadian firms that are "strong enough to flourish primarily in their own domestic (or North American) markets" (p. 247) and foreign-controlled firms that "maintain operational headquarters" in Canada "with independently run boards of directors and social and cultural consciences that seem unmistakably Canadian in cast" (p. 246). Based on his experience with leading Canadian corporations—including TransCanada Corporation, Fording Coal, and Encana—he argues that Canadian firms can compete, but they have to become large (and specialized) enough within their own markets to fend off potential takeovers by foreign competitors or corporate raiders.

Conventionally, he views Canadian ownership as critical to the development of Canadian management, arguing that "the most important factor is where the head office is located and where management decisions are made" (p. 248) . . . "allow[ing] your best and brightest to work in Canada rather than having to go somewhere else for the top jobs" (p. 250). Moreover, he contends that successful, Canadian-based firms are more likely to give back to the communities that have helped them to become successful through commitments of philanthropy and community service.

However, unlike many business executives, Haskayne is also a strong advocate for recent corporate governance reforms—including independent audit committees, non-executive board chairs, more transparent financial reporting standards, and disciplines to align executive compensation more closely with shareholders' interests. He also endorses the growing use of "integrity hotlines" that allow employees, suppliers, or clients to report ethical concerns to designated third parties to promote compliance with companies' internal codes of practice.

Haskayne favours a more active role for governments in the marketplace than many business executives—opposing consolidation in the banking sector, but favouring moral suasion to encourage consolidation in major industrial and resource sectors as an alternative to major foreign takeovers. He remains far more optimistic than Mandel-Campbell about Canada's social and economic climate and the capacity of its business leaders to compete internationally.

Taken together, these two books provide interesting, if often diverging perspectives on the challenges of international competitiveness, business ethics, and some of the differing paths available to governments in dealing with the challenges of globalization. However, they also bring to mind several lessons from Jim Gillies' 1981 critique of business advocacy, *Why Business Fails*—especially the dangers of mixed messages and the tendency of some business groups to take an excessively narrow view of the public interest. On balance, Haskayne's memoirs demonstrate a greater sensitivity to the internal and external political realities facing business executives, while Mandel-Campbell may provide a more practical business primer for the minority of Canadian firms committed to expanding their global networks.

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