BOOK REVIEW

Water and Fishing: Aboriginal Rights in Australia and Canada
Paul Kauffman (editor)
Canberra: Aboriginal and Torres Strait Islander Commission, 2004

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The Supreme Court of Canada in 2000 upheld Aboriginal fishing rights flowing from historic Treaties signed between the Mi'kmaq and the British in 1760–61, a decision that was immediately condemned by non-Aboriginal fishers. Minor altercations followed cultivating more violent confrontations that resulted in Aboriginal fishers being shot at. In an insightful article by Paul Fitzgerald, a senior level Public Affairs Officer for Saint Mary’s University in Halifax, the author expressed his concern with the “manner in which the complexity of the Marshall Decision was dramatically simplified in a one-sided way for popular consumption,” and how Aboriginal people were, despite Supreme Court vindication, depicted by the Canadian media as criminals for fishing out of season. This event effectively introduced to the Canadian public the idea of Aboriginal water and fishing rights and the difficulty involved in reconciling these rights with contemporary government policies.

Aboriginal water and fishing rights is an area of study that has been recently embraced by indigenous scholars internationally and is one of significant importance. In the introduction of Water and Fishing: Aboriginal Rights in Australia and Canada, the editor Paul Kauffman posits, “Does granting rights for Indigenous people necessitate limiting the rights of others? Can protecting or re-instating Indigenous people’s rights to waters or to fishing lead to a more harmonious society and better protection of the environment? What do Indigenous people want? What is the law? And what is the practical situation in Australia and Canada where the situation of Indigenous people has much in common?” These and other salient questions provide the foundation for an extended discussion about Aboriginal water and fishing rights in Australia and Canada, an all too often ignored aspect of traditional Aboriginal economies, and one that requires further academic investigation and legal clarification.

Kauffman, who has managed Indigenous land, heritage, and cultural programs in the Aboriginal and Torres Strait Islander Commission and who has held

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senior government and academic positions, assembled a collection of 15 essays
developed by 14 academics, lawyers, and community leaders. The final edited
compilation is an important and varied collection that reveals the varied dynamics
Aboriginal leaders in Australia and, to a lesser extent, Canada must contend with
in what has become an age of contested water and fishing rights. The prescribed
intent of the book is to act as “a resource to Indigenous people, the general
public and others who will work on these issues in the future,” a lofty goal that I
believe Kauffman reached.

In what is at times a highly technical read, the level of detail is impressive
and the analyses offered telling. The contributions are for the most part legal cri-
tiques of existing legislation and government policies in both countries. What is
unique in most of the chapters is the sense of relevancy and urgency engendered
vis-à-vis the authors’ discussion of issues that will soon become both public and
politically-charged debates. Most authors included discussions about the difficult-
ties facing Aboriginal people in their drive to see historic water and fishing rights
entrenched, and the positive and negative outcomes of various political strategies
are also discussed by highlighting policy and legislative outcomes and how these
ideas continue to fuel debate. Unfortunately, for a book that purports to offer a
comparative study of Canadian and Australian Aboriginal fishing and water rights
issues, Canadian issues take a definite back seat to Australian concerns. Included
is one brief comparative essay examining Aboriginal fishing rights in Canada and
Australia and two essays discussing the Aboriginal fisheries experience in Canada,
generally, and specifically how the Inuit navigate political currents in their quest
for improved access to fish stocks of the Arctic seas.

As is often the case with compilations, Water and Fishing is at times uneven.
The quality of the fourteen essays is undeniable as the contributors endeavour to
capture for the reader the Aboriginal experience in both Canada and Australia.
The compilation is laden with theoretical analyses that at times makes for a diffi-
cult read for those unfamiliar with Australian and/or Canadian legislation in rela-
tion to Aboriginal fishing and water rights. For specialists in the field, however,
this compilation is a must.

This volume’s intended audience is primarily academic and in particular it
would be of interest to graduate students or specialists in the field and from
other related disciplines. Due to its precise legal nature this book is not recom-
ended for those seeking a quick and painless overview of the issues. The cali-
bre of scholarship is significant and its appeal would quickly be lost to lower
division students and the general public.

NOTE
sion and Aboriginal Representation,” Canadian Dimension 36, no. 4 (July/Aug 2002),
29–32.