

BOOK REVIEW

Water and Fishing: Aboriginal Rights in Australia and Canada

Paul Kauffman (editor)

Canberra: Aboriginal and Torres Strait Islander

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The Supreme Court of Canada in 2000 upheld Aboriginal fishing rights flowing from historic Treaties signed between the Míkmaq 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 critiques 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 difficulties 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 difficult read for those unfamiliar with Australian and/or Canadian legislation in relation 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 recommended for those seeking a quick and painless overview of the issues. The calibre of scholarship is significant and its appeal would quickly be lost to lower division students and the general public.

NOTE

1. Paul Fitzgerald, “Fishing for Stories at Burnt Church: The Media, The Marshall Decision and Aboriginal Representation,” *Canadian Dimension* 36, no. 4 (July/Aug 2002), 29–32.