

FEDERALISM IN ACTION: The Australian and Canadian Offshore Disputes by Richard Cullen; Federation Press, 1990, xxiii + 249pp (including index), ISBN 1862870432

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As federal states, Australia and Canada are seen by political scientists and constitutional lawyers as having much in common. Emerging from the British Empire in the mid to late nineteenth century they share similar features in their constitutional structures. Since Canadian Confederation in 1867 and Australian Federation in 1901 the federal systems in both states, however, have undergone substantial change. Though originally seen as being parties to a centralist constitutional compact, the Canadian provinces have been able to successfully maintain their distinctive position in Canadian political life and in the constitution. In Australia, though, despite the doctrine of "reserve powers" initially favoured by the early High Court, the States since the decision in *Amalgamated Society of Engineers v Adelaide Steamship Co* (1920) 28 CLR 129 have not been able to stop the centralist push to expansive federal powers for the Commonwealth Parliament.

Given these developments, Richard Cullen's book dealing with the disputes between federal and state/provincial governments in Australia and Canada presents a contrast to the common view on how federalism has developed in both countries. By concentrating on the resolution of the federal offshore disputes in Australia/Canada, Cullen is able to demonstrate how the Australian states were able to win significant concessions from the Federal Government with the implementation of the 1979 Offshore Constitutional Settlement (OCS). The result is that the States were in effect given back sovereign rights which the High Court had removed in decisions such as *New South Wales v Commonwealth (Seas and Submerged Lands Act Case)* (1975) 135 CLR 337. In Canada, though, there has been no such universal settlement of offshore issues. Rather, the Federal Government has relied upon a number of Supreme Court decisions to negotiate favourable offshore agreements on an individual basis with some of the coastal provinces.

While there can be no denying that Cullen tells the story of both offshore disputes very well, some doubt must remain as to whether the "cardinal theme" of the book has really been met. That theme is that "the offshore disputes in Canada and Australia have much more to tell us about federalism in the two countries than federalism generally has to tell us about these offshore disputes" (at p3). However, this theme is not consistently pursued throughout the book. This is partly a result of the considerable attention given to the offshore constitutional disputes in both countries. The consequence of this is that when a detailed discussion of federal principles and how those principles have been applied in Australia and Canada throughout the disputes is undertaken in the penultimate chapter, it seems an afterthought in a book primarily dealing with another subject. Therefore, while Chapter Six on "Future Directions" does advance some thoughtful arguments on the question of federalism, it is too short an analysis of such a detailed and complex question to truly meet the author's goal.

Cullen's contribution though is to record in fine detail the various stages of the offshore debate in Australia and Canada from the 1960s through to the mid 1980s. In the process there is considerable attention devoted to various judgments of the courts, the legislative schemes, the inter-governmental agreements, and the political background. The reader is left, for example, with a thorough understanding of the various component parts of the OCS, including an excellent discussion on the constitutional implications for the Commonwealth of having entered into the compact. Given the current interest in Australia at present in Commonwealth-State relations and with the Resource Assessment Commission commencing its enquiry into the Coastal Zone, Cullen's analysis of the OCS will be a valuable contribution to the current debate. Much the same comment can be made on the review of issues arising from the

Canadian offshore question, especially the complex negotiations between the Federal Government and Maritime Provinces.

From the perspective of style and presentation this book also has a number of commendable features about it. The author has included a very short introductory chapter which describes the approach to be taken in subsequent chapters. Certain distinctive geographical features about Australia and Canada are noted, a brief summary of the arguments of each chapter is presented, and then readers are given a useful statement about nomenclature adopted and graphics used throughout the book. Some of these details could have usefully been included in an expanded Preface rather than a Chapter, but irrespective of where they should and could have appeared, the opening comments by the author are very helpful in setting the framework for the book's consideration of the topic. Another useful technique employed throughout later chapters is to provide a short initial summary of a topic, followed by detailed discussion and analysis, and then another summary placing the discussion in context with the overall content.

The author adopts a refreshing and honest approach when presenting his own opinion. Such analysis is usually made in the first person and is often accompanied by a point form statement which allows the reader to gain a clear understanding of the bases of the author's analysis. Another feature used to allow readers to follow the discussion is the inclusion of 18 maps and diagrams. These figures assist considerably in gaining a better understanding of the geography of the subject areas of the various federal offshore debates and the decisions of the courts. Without their inclusion an atlas would have been a required accessory for any reader.

This book is certainly a valuable contribution to the literature in both Australia and Canada concerning the offshore disputes during the past 25 years. There is an even balance between the legal debate and its resolution in both countries, though when federalism becomes the focus a review of the Australian position becomes more dominant. The constitutional issues and ramifications are adequately highlighted so as to satisfy the constitutionalist. It would be wrong though for a reader to anticipate that this book will provide an overall view of federalism in action in Australia and Canada. It does provide a snapshot as to how similar issues were dealt with in two federal states with similar heritages. But given the unique features associated with the offshore debates in both Australia and Canada, their legal and political resolution do not go terribly far to providing clues as to how much greater problems in the federal system of both countries will be solved in the future.

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