

1974

## Book Review: International Legal Aspects of Federalism, by Ivan Bernier

Peter W. Hogg  
*Osgoode Hall Law School of York University*

### Source Publication:

Canadian Bar Review. Volume 52, Number 4 (1974), p. 618-619.

Follow this and additional works at: [https://digitalcommons.osgoode.yorku.ca/scholarly\\_works](https://digitalcommons.osgoode.yorku.ca/scholarly_works)



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](#).

---

### Recommended Citation

Hogg, Peter W. "Book Review: International Legal Aspects of Federalism, by Ivan Bernier." *Canadian Bar Review* 52.4 (1974): 618-619.

This Book Review is brought to you for free and open access by the Faculty Scholarship at Osgoode Digital Commons. It has been accepted for inclusion in Articles & Book Chapters by an authorized administrator of Osgoode Digital Commons.

*International Legal Aspects of Federalism.* By IVAN BERNIER. London: Longman. 1973. Pp. xi, 308. (£4.95.)

This book studies the intersection of federal constitutional law and international law. There are two parts to the study. One part looks at the federal state as a subject of international law: how does it differ from a unitary state in the acquisition and fulfillment of international rights and obligations? The second part looks at the influence of the federal concept on international law: how has the federal concept influenced organizations of states and the settlement of disputes in international law?

---

<sup>3</sup> This provision has been implemented in Canada by The Bretton Woods Agreements Act, R.S.C., 1970, c. B-9, s. 3.

\* D. M. McRae, of the Faculty of Law, University of British Columbia, Vancouver.

The book is a remarkable piece of scholarship, demonstrating a grasp not merely of the two principal legal disciplines, but of much of the federal law and practice of a large number of federal countries, and especially, Canada, the United States, Australia, Switzerland, Germany and Russia. The footnotes and bibliography are packed with material in French and German as well as English. The long bibliography will prove to be exceptionally useful to libraries and scholars working in related fields.

This book is not primarily concerned with Canada. However, Canada's role in the international community and Canada's difficulties in adhering to and fulfilling international obligations are among the topics which are treated and illuminated by the comparative approach. We learn for example that Quebec's claim to enter into international agreements in its own right is a good deal more tenable than the conventional wisdom in English-speaking Canada would have us believe. In Germany, Switzerland, the Soviet Union and the United States of America the written constitutions expressly authorize the regional units to enter into agreements with foreign states, although the consent of the central government or legislature is always necessary. Therefore, while the British North America Act is silent on the issue, it seems in accord with established practice to allow provinces some scope for direct dealings with foreign states, always subject in each instance to the consent and supervision of the federal government and (needless to say) of the foreign state. This is the effect of the compromise which was worked out in 1965 to enable Quebec to enter into cultural agreements with France.<sup>1</sup> The desirability of this kind of arrangement is emphasized by the federal Parliament's incapacity to enact laws in fulfillment of treaty obligations in fields within the legislative competence of the provinces.<sup>2</sup> The need to secure provincial legislation in order to implement conventions with respect to labour, education, the status of refugees, women's rights and human rights generally has prevented Canada from accepting or in some cases from fulfilling international commitments.<sup>3</sup>

This book makes an original contribution to legal literature by its synthesis of two subjects which are traditionally seen as discrete. Every lawyer who is interested in federal constitutional law or international law will find much that is new and challenging in the book. Both author and publisher deserve our congratulations.

P. W. Hogg\*

---

<sup>1</sup> P. 188.

<sup>2</sup> *A.-G. Can. v. A.-G. Ont.*, [1937] A.C. 326.

<sup>3</sup> Pp. 152-158.

\* P. W. Hogg, of the Osgoode Hall School, York University, Toronto.