After discussing the general influence of international law on New Zealand in session 7, session 8 takes a closer look at the relationship between Australia and New Zealand. New Zealand’s identity has been shaped by its interactions with other nation states, particularly Australia. Being often seen as Australia’s little siblings or its 8th state, New Zealand has in fact developed legally as well as culturally very different from Australia. That is not to say that there are considerable similarities in the law but also historically and socially: starting with both having been British colonies. Unsurprisingly, all discussants make the Constitution Act 1901 their starting point.

As Colin James points out, Australia and New Zealand are in many ways similar but also in many ways different, which he explores in more detail in his paper. Though Australia and New Zealand are unlikely to federate or confederate in the next 20 years, they have been drawing closer together in a range of ways. He points out that the re-meshing of the two societies and economies more recently has revived talk on both sides of the Tasman of federation or some other form of constitutional or quasi-constitutional reconnection, as in a confederation or by way of a proliferation of supranational joint agencies. James points out that coincidental with the re-meshing has been a differentiation. The relationship, in his view, is both foreign and family.

Philippa Mein Smith lists as the main points of distinction: the matter of a written or unwritten constitution and defence policy while cooperation exists in trade, ideas exchange and at high political levels. She advances the thesis that with the realignment of global power relations, New Zealand would do well to maintain its separate status while at the same time recognising its complementarity with Australia.

Paul O’Sullivan suggests that the relationship could take the form similar to the relationship between the Nordic states or the Benelux states. Differing national sentiments, economic reasons and political personalities all played their part in New Zealand’s decision not to become Australia’s seventh state. Despite this, the two countries have maintained a dynamic relationship throughout the twentieth century into the present day.