

Modern Federalism by GEOFFREY SAWER. (Pitman Australia, 1976, 2nd Edition), pp. i-vii, 1-170. Recommended retail price \$5.50 (ISBN: 0 85896 448 1).

This text has evidently had the success its broad and perceptive conspectus deserved and here now, in a very presentable soft-cover format, is a pleasantly readable second edition. It is essentially a comparative study of the noteworthy features and tendencies of some ten major federations with sidelong glances at some additional failing, failed or "incipient" federal structures. Any such work needs herculean labours to bring it up to date—one has only to think of our own Commonwealth where succeeding Prime Ministers each have their own "New Federalism", and of the whirl of events affecting our Federation between 1972 and the "coup and plebiscite" of November-December 1975. In the additional case of the European Economic Community, as "an incipient federalism", Sawer is dealing with a community as significantly changed in a score of ways as it has been enlarged since his first edition. That change and development alone, with all its tangled skein and case-law, calls for tireless mastering and distillation even for a brief treatment like the present.

Whilst Sawer must be judged by his control of a ten- or twelve-ring circus, most of us, in our parochial way, will no doubt turn first to his treatment of the convention- and precedent-shattering antics of 1974-1975, many of which are neatly packaged and presented in a wider perspective at pages 68-71.

"Never before in British Commonwealth history", Sawer emphasises, after surveying the field, "had the Queen or her representative dismissed a Chief Minister with a Lower House majority solely because of failure to get Supply through an Upper House". He goes on to stress the Governor-General's further extraordinary course of action in requiring the outcome of the dissolution he then granted the minority Prime Minister of his personal choice "to be a double dissolution election, based not upon the activating disagreement about Supply (since as to that the conditions of s. 57 had not been satisfied) but upon twenty-two other Bills as to which there had been the necessary sustained deadlock" (engineered, Sawer might have added, largely by the man who was now, as minority Prime Minister, to be handed on a plate the electoral benefit of his obstructions; for, whether or not so intended by the Governor-General, his summary dismissal in the overheated political circumstances of the crisis could not but penalise heavily at the polls his peremptorily and autocratically discarded chief adviser and endow his replacement with a most generous electoral advantage). One can think of only one or two even vaguely comparable incidents at either level of government in the parliamentary federalisms.

In the same chapter, Sawer has slightly expanded his first-edition comparison of Australian and American judicial treatment of the important "common-market" motive for federation. The Holmesian

echo (cf. Holmes' 1905 *Lochner* crack: "The Fourteenth Amendment does not enact Mr Herbert Spencer's *Social Statics*") of Sawyer's treatment, in the first edition, of the 1948-1949 Banking judgments will be remembered:

The 1949 Privy Council decision in *Bank Nationalisation* finally adopted the individualist approach which had then recently become the dominant one in the High Court; it is a construction allowing only such power of regulation and taxation of interstate commerce as is permitted by Herbert Spencer's conception of the scope of government generally—the minimum consistent with the continued existence of trade in an ordered society. . . .

In the new edition before us, Sawyer notes that since his work first appeared there have been some High Court nibblings away at these Dixonian concepts. But he finally comes back to his 1968 conclusion:

It remains generally true that, whereas in the U.S.A. the common market is a purpose of federalism giving rise to a wide centre competence, in Australia it is treated more like a Bill of Rights guarantee to the individual trader.

Over pages 68-75 the author leaves little doubt about the mess and confusion into which federalism of our sort and in our circumstances leads the governance of the country and ordering of its services, production and distribution.

In his new preface the author pays your reviewer a much appreciated compliment. In return your reviewer expresses the hope that we shall soon see a third edition, if only so that two original dates and a new one may be corrected: 1946 for 1947 (page 32); 1930 for 1931 (page 128); and 1974 for 1975 (page 70).

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Manual of the Law of Income Tax in Australia by K. W. RYAN, B.A., LL.B. (Qld), PH.D. (Cantab.); Barrister-at-Law, Professor of Law, University of Queensland. (The Law Book Co. Ltd, 1976, 4th edition), pp. i-xxi, 1-289. Cloth, recommended retail price \$14.50 (ISBN: 0 455 19454 8); Paperback, recommended retail price \$11.50 (ISBN: 0 455 19452 1).

Case Companion to Ryan's Income Tax Manual by H. H. MASON, B.A., LL.B. (Syd.), LL.M. (Adel.), PH.D. (Qld); Barrister-at-Law of the Supreme Court of New South Wales, Reader in Commercial Law, Department of Commerce, University of Queensland, J. DIXON, B.E.C. (Adel.), LL.B. (Syd.), F.A.S.A.; Barrister-at-Law of the Supreme Court of Queensland, Senior Lecturer in Law, Department of Law, University of Queensland and L. G. PRIDDLE, LL.B. (Qld); Solicitor of the

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