

Essays In Australian Federation, by A. W. MARTIN (ed.), (Melbourne University Press, 1969), pp. i-xi, 1-206. Price \$6.30.

This book is one in a series established by the Melbourne University Press, to quote the description put out by the Press itself, 'for the publication of scholarly writing upon Australian Federation'. It is apparently the third to appear, the first two being Sawyer's engagingly informative *Australian Federalism In the Courts* and La Nauze's edition of Deakin's letters to the Morning Post, published as *Federated Australia*. Since the very purpose of the series is to facilitate the publication and increase the availability of specialized studies of the federation, it would be beside the point to criticize this book on the ground that the collection of essays it comprises is organized round no more coherent theme than that they all have something to do with the event of federation as it actually occurred. It should be received as a convenient repository of a number of highly specialized studies unlikely to be of equal value to any one scholar, or indeed of equal interest to any one reader, but severally very useful in the various fields to which they relate.

For the lawyer the prize offering is J. A. La Nauze's acerbic account of the authorship of the two words of the Australian Constitution familiar to a wider range of people than any other expression in the entire document: the words 'absolutely free' in section 92. Professor La Nauze was moved to look into the matter by the tendency of lawyers taxed with having made a monumental hash of interpreting 'absolutely free' to excuse themselves by maintaining that it was a layman's idea to put these words in in the first place. He makes it abundantly clear that as a fact of history this argument is without foundation, notwithstanding George Reid's unduly celebrated and altogether muddled remark about laymen's language. He scores early with the telling reminder that Reid was immediately contradicted by Barton, who said it was the language of three lawyers, a proposition much nearer the truth. The rest of the essay is fascinating, not least because it is a rare and happy experience to have a professional historian commenting in detail on an instance of what he calls, quite rightly, 'a curious sort of hypothetical history indulged in by various learned judges' (p. 58). Lawyers are very apt to rationalize backwards by inventing history and then covering themselves against error by conceding that the whole speculation is hypothetical anyway. It must present an eerie intellectual spectacle to someone who knows what he is talking about. The only matter of regret is that, as La Nauze handsomely acknowledges, there is nowadays so little cross-fertilization between specialists that he was unaware when writing this study of F. R. Beasley's earlier work on section 92 in the Convention Debates. He is also unaware, apparently, of Sharwood's later disagreement with some of Beasley's conclusions.¹

From the constitutional lawyer's professional point of view the next most relevant study is B. K. de Garis's account of the part played by the Colonial Office in the amendments to the Constitution Bill; or perhaps one should say, account of how the part was played, for the Colonial Office meant Joseph Chamberlain and the more one reads about his part in federation the more one marvels at his incomprehension of the manner of men he was dealing with. In retrospect his deviousness and attempted manoeuvring through Reid seem quite childish. From the standpoint of the law this essay includes some interesting details of the course of the amendments. In retrospect once again, it all seems to be a great ado about very little.

The other essays are of more immediate concern to the historian or political scientist than to the lawyer, but the word 'immediate' should be stressed for in fact they compel the attention of anyone genuinely interested in this country and in the remarkable generation of men who brought it into being. Perhaps the most entertaining study is that by R. Norris of what he politely calls economic influences on the 1898 South Australian referendum. Economic influence in this context meant, quite naturally, the question whether in monetary terms South Australians could expect to make a swift, measurable profit out of the deal or not. On page 140 there is reproduced an advertisement from the *Orroroo Enterprise*

(a splendid name for a newspaper if ever there was one) in which the advantages of federation are set temptingly before the doubting voter. They include a precise calculation that if one took into account the maximum cost of federation and the anticipated financial benefit there would be a profit to South Australia in the first year of £17,000 and £50,000 per annum thereafter, from which it is concluded that federation would cost South Australia nothing. What we need now is a study of South Australian opinion on the point at various later stages, particularly 1906, when the implied immunity doctrine was running at its height against state tax powers, and 1936, when F. A. James's campaign against state control of trade reached its highest pinnacle of success. As to the extraordinary financial calculations, here is reproduced on pages 183-4, at the end of Patricia Hewett's excellent study of the 1898 and 1899 referenda in South-Eastern New South Wales, a piece of doggerel verse of the time the last three lines of which are:

And it then becomes as clear as day
That the weight of a dead mosquito's tail
Is as long as the price of a two inch nail!

The other two essays are G. Serle's account of the Victorian Government's campaign for federation, 1883-1889, and Janet Pettman's study of the part played by the A.N.A. in federation in South Australia. They are equally as informative and readable as the rest of the book. One may be permitted to express the hope that Serle's work on Victoria will continue notwithstanding the obstacles presented by the current financial situation of the universities. One should also not omit mention of the preface by the editor, which presents concisely the paradox that the most important event in the history of Australia, its coming into being at the time it did against all the rational odds, has until recently been the least studied aspect of its history. It is good to read that the outstanding work of Quick and Garran in their *Annotated Constitution* may have been partly responsible, for they deserve very acknowledgement of that remarkable achievement of scholarship, but it is high time that the balance was redressed as between federation and, say, Ned Kelly or Gallipoli. This book is an encouraging step in that direction.

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¹ 'Section 92 in the Federal Conventions: A Fresh Appraisal' (1958) 1 *M.U.L.R.* 331.

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