

THE FEDERAL STATES AND THEIR
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Constitutional Law and Organization of Courts in
Federal States, by W. J. Wagner.* Mouton & Co.,
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Book Review

THE FEDERAL STATES AND THEIR JUDICIARY, A Comparative Study in Constitutional Law and Organization of Courts in Federal States, by W. J. Wagner.* Mouton & Co., 1959, The Hague. Pp. 390.

Since the United States of America is the oldest federal state in the world (p. 15), this intensive and concentrated work on federal states and their judiciary is necessarily of great interest and value to Americans. Seven federal states are carefully described and evaluated: the two which are most frequently thought of, United States and Switzerland; two among the Commonwealth countries, Canada and Australia; and three in Latin America, Argentina, Brazil, and Mexico. It is fair to say that more attention and space are devoted to United States than to any of the others.

This study was originally done for the S.J.D. degree at Northwestern University School of Law, and Professor Brunson MacChesney has provided a very commendatory preface for the published book. While it is regrettable that scholarly works of this kind are hard put to find willing publishers in our own country, it is somewhat gratifying that a foreign publisher should bring it out and give it a place in the permanent legal literature.

The book is divided into four parts. Part I contains the author's general observations about federal states and describes their characteristics, including the problem of the sovereignty concept at different levels (pp. 22-25). He suggests that "autonomy" would be a better term in some cases.

Part II is entitled "Principles of the Federal System of Courts" and discusses (in all the seven countries covered) the principle of supremacy, the nature and history and evaluation of judicial review, the dual systems of courts and the two systems of law, the qualifications and tenure of judges. Good judges are more important than a good organization of courts (p. 187). The author considers the system of a double judiciary in federal states as sound but suggests that it would be more practical and less wasteful if there was only a single federal court (p. 152).

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The idea of a judicial system and the counterbalancing benefits of federal and state courts evoke the associated thought of the "rule of law," yet this is not guaranteed. Similarly, the federal state or the dual judiciary is not necessarily synonymous with democracy as we understand it.

Part III deals with matters of federal jurisdiction, including special problems in the British Dominions.

Part IV is devoted to a study of the supreme courts in the seven countries. It covers their history and organization, their appellate jurisdiction and original jurisdiction, and concludes with a comparative evaluation of their roles in the respective countries.

There is a table of authors and materials cited (pp. 377-390) but no index.

A tremendous amount of valuable and interesting material has been collected, collated, and evaluated in this book. The documentation is very extensive. At many points, the author includes references to other countries in addition to the seven basic ones. The material is organized and presented effectively, and the book is well written. It will be very useful to the political scientists as well as to the legal profession.

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