REVIEWS AND NOTICES

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Solving Labour Problems in Australia. By ORWELL DE R. FOENANDER. Melbourne University Press, in Association with Oxford University Press. 1941. Pp. xxxv, 168. (15s.).

This volume carries on the excellent analysis of the work of the Commonwealth Court of Conciliation and Arbitration, begun in Mr. Foenander's previous book, *Towards Industrial Peace in Australia*, which was reviewed in 17 Canadian Bar Review 73. In the main, it describes and explains the Court's work in the fixing and adjusting of wages and hours, with special chapters being devoted in the discussion of these matters to the sheep and cattle pastoral industries and to the coal mining industry. Both this book and the earlier one indicate that the Court's success in fulfilling its statutory duty to prevent and settle industrial disputes has depended on three factors: (1) confidence in the Court on the part of employers and employees; (2) organization of both employers and employees into associations and unions; and (3) an acceptance by the Court itself of the principle of collective bargaining. The Court has given encouragement to unionism in some of its awards. And the author states, in his chapter on the problem of sweating in industry, that where employees do not share in the living levels provided by the Court, it is largely because they are non-unionists, and their failure to join a union "originates in fancied self-interest, in sheer ignorance or negligence, or even in certain forms of duress at the hands of employers". His estimate is that for the success of the Australian industrial peace machinery, "greater credit rightly belongs to the workers' organizations than to [the employers]".

Some of the constitutional limitations on the Court's power have been overcome, in relation only to the present war emergency, by the National Security (Industrial Peace) Regulations, 1940, under which the Court's position as the centre of the industrial arbitration system is preserved and its jurisdiction extended, *inter alia*, to cover a wider range of disputes and to enable it to prescribe a common rule for industry in any award or order. Normally, the Court, unlike the state industrial tribunals, cannot prescribe a common rule, save possibly in respect of the settlement of a dispute in a territory of the Commonwealth. Recently, steps have been taken in the direction of closer co-operation between the Court and the state tribunals. Although in the case of an overlapping or inconsistency of awards the federal award prevails, the existence of concurrent authority may move parties to a dispute to exploit such a situation to their advantage. The Court has helped in this connection by laying down guides for determining the proper sphere of state action.

It is no less true in Canada than in Australia that "important economic problems are . . . . linked up with constitutional and legal issues as a consequence of political federation". In Canada we have had vivid illustration, in the decisions of the Privy Council, of how hopes for the solution of grave economic problems must yield to the strict interpretation of federal legislative power. But even were the British North America Act to permit

of the establishment by Canada of a system of industrial conciliation and arbitration, it would still be necessary to see that the struggle for unionism and collective bargaining is brought to a successful conclusion in order to provide assurance for the proper functioning of the system.

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Toronto.