Chapter Ten

Beneath Deakin's Chariot Wheels: The Decline of Australia's Federation

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If the tariff question was the lion in the path of Federation,[1] then the financial arrangements for the new Federation were an equally fearsome beast. In the end they were resolved in a way that the States believed, wrongly, preserved their financial dominance and their independence.

The allusion in the title of this paper is to a familiar and very early recognition of what the States had really signed up for — Deakin's observations on the future of the Federation written for the London *Morning Post* on — some might say appropriately — April Fool's day, 1902. Although the "chariot wheels" reference is familiar, I would like to quote Deakin in full, if only to defend my choice of title:

> "As the power of the purse in Great Britain established by degrees the authority of the Commons, it will ultimately establish in Australia the authority of the Commonwealth. The rights of self-government of the States have been fondly supposed to be safeguarded by the Constitution. It left them legally free, but financially bound to the chariot wheels of the Central Government. Their need will be its opportunity. The less populous will first succumb; those smitten by drought or similar misfortune will follow; and finally even the greatest and most prosperous will, however reluctantly, be brought to heel. Our Constitution may remain unaltered, but a vital change will have taken place in the relations between the States and the Commonwealth. The Commonwealth will have acquired a general control over the States, while every extension of political power will be made by its means and go to increase its relative superiority".[2]

I note that at the Society's last Conference, Professor Bhajan Grewal objected to this view of Deakin as an Antipodean Cassandra:

> "Contrary to Deakin's assertion, the Constitution of Australia did not establish a dysfunctional federalism…Australia's federalism became dysfunctional after the Second World War for two reasons. The exclusion of the States from income taxation in 1942, which Deakin could not have anticipated in 1902, and the High Court's interpretation of excise duties in subsequent years, which again he would not have known about, together created the extreme degree of revenue centralisation".[3]

Professor Grewal is too harsh. Deakin's essential point — that the Commonwealth would use every opportunity to extend its financial, and hence political, power — is plainly right. Nor does he say that the Constitution is the means by which the Commonwealth's "authority" will be established. It is no more than a permissive framework. Rather, he said this would be accomplished by the power of the purse. That his prescience did not extend to the *Uniform Tax Case* of 1942 or *Parton v. Milk Board* in 1949 is neither remarkable nor relevant. The Commonwealth has acted essentially as Deakin anticipated it would.

Indeed, the Commonwealth did not waste much time. One provision of the Constitution was that the Commonwealth should return to the States any surplus revenues it collected in the first 10 years of Federation. In 1908 the Commonwealth legislated to pay any surpluses into a trust account, avoiding any obligation to pay them to the States. The Constitution also mandated that for 10 years after Federation, and thereafter until the Parliament provided otherwise, at least 75 per cent of the Commonwealth's customs and excise revenue should be passed back to the States. The Commonwealth terminated the arrangement immediately the mandatory 10 years had expired.

As it started, so it has gone on, taking advantage of opportunities presented. Clearly the most significant opportunity *was* the Second World War, when the Commonwealth seized income tax from the States and was upheld in doing so by the High Court. Ominously for the States, the Court not only held the Commonwealth's income tax legislation valid under the defence power of the Constitution for the duration of the War, but also under the normal powers of the Commonwealth in times of peace.

Income tax had comprised about 60 per cent of the States' tax base immediately before the War. With its takeover by the Commonwealth in 1942, the States' share of total taxation revenue fell from 50 per cent to 10 per cent. That has since been rebuilt to around 20 per cent, a painful process involving resort to a number of very inefficient, distortionary and inequitable taxes such as Financial Institutions Duty (FID), the Bank Accounts Debits Tax (BAD)and various stamp duties. You may notice that I do not mention Pay-roll Tax in this list. It is neither a likely, nor necessarily a desirable, candidate for abolition.

The States' revenue raising efforts were dealt a further substantial blow last year in the *Ha & Hammond Case,*[4] which continued a line of High Court judgments from *Parton*[5] in 1949 (although, for this audience, I should acknowledge the influence of Dixon's earlier 1936 judgment in *Matthews v. The Chicory Marketing Board*) that have denied the States access to consumption taxes. The *Ha* judgment stripped some $5.2 billion from the States' already narrow revenue base.

The result of this cumulative attack on the States' tax base has been an extreme degree of "vertical fiscal imbalance" (VFI), much higher than in any comparable federation. Following *Ha,* the Commonwealth now collects 76 per cent of all taxation revenue (80 per cent if we exclude local government), while accounting directly for only 56 per cent of total expenditures. The States raise 20 per cent of total tax revenue but are responsible for 40 per cent of outlays.

All of this is fairly well known to anybody who has taken an interest in Commonwealth-State financial relations and their implications for the federation. However, there are two other aspects of history that should be considered for the sake of completeness. These are the Commonwealth Grants Commission and s.96 of the Constitution.

The Grants Commission was appointed in 1933 to assess the amount of special grants from the Commonwealth to the States, and Mathews and Jay, in their history of fiscal federalism, comment on its significance as follows:

> "The significance of the Grants Commission's procedures is that they introduced, for the first time in a federation, the concept of approximately equal treatment for all citizens irrespective of the State they lived in. In terms both of the obligations for taxation and claims for administrative and social services, the net effect was intended to approximate the situation that would have existed in a country with a unitary government. The concept has thus had far-reaching consequences in extending Commonwealth responsibility *vis-à-vis* State responsibility and State independence".[6]

This is overstating the significance of the Grants Commission, because it is in fact possible for there to be a wide range of variation in taxation and expenditure choices by individual States. This is confirmed in the Grants Commission's own reports. The Grants Commission ensures that each State Government has the financial ability to provide a similar standard of services, but the States are not compelled to provide a uniform percentage of their budget to specified service areas, or make any particular level of tax effort. However, on a broader level the Commission's activities do contribute to uniformity and a blurring of responsibility — two important problems of the federation.

Professor Wolfgang Kasper, writing in the different but related context of restraining the opportunism of political agents, observes that:

> "Ensuring the same living conditions throughout the country, irrespective of location, resource endowment and political behavior, cannot, however, be an objective of policy if

one wants administrative creativity and power control. This objective is the equivalent of income redistribution: it stifles self-reliance and competition".[7]

As for s.96, originally a last-minute attempt to ensure the financial safety of the States, it provided the Commonwealth with a powerful means to undermine State independence through the ability to grant financial assistance to any State "on such terms and conditions as the Parliament thinks fit". This has been exploited in various ways, notably through Specific Purpose Payments, or "FAGS (Financial Assistance Grants) with tags" as they are referred to by State Treasuries. How significant the Commonwealth's ability to make grants conditional is in practice is open to debate. The States certainly see them as further eroding their independence, but their significance has been queried by a former Commonwealth Treasury official with long experience in Commonwealth-State relations, Mr. Des Moore, in a paper to an earlier conference of this Society.[8]

However, since my topic today is, in effect, Tax Reform and the States, I won't pursue these issues further. This brief history is simply intended to establish the extraordinary decline in the financial independence of the States since Federation, as measured by their ability to fund their own expenditures and, to a lesser extent, determine their spending priorities. A former Premier of Queensland, Mr. Wayne Goss, has gone so far as to describe this process as *de facto* abolition of the States.

If this is an exaggeration, it is not a very great one. Mr. Goss warned that there was a real problem developing in the constitutional structure of Australia:

> "Public debate talks of a new Australian nation by the year 2001 — I suspect the *de facto* abolition of the States will be complete by then. While some may cheer the demise of the States, the relevant question is whether this is the way to do it. Is it a good policy result to have the States finished off in the sense of having no real power or independent role, but with six Parliaments and administrations still constitutionally alive and locked into the structure? I believe it would be a poor result, because it would leave Australia with a constitutional and administrative structure in conflict with the reality, leading to inefficiency, a lack of accountability and duplication of administration. Inefficiency, with six irrelevant Parliaments and sets of State laws; a lack of accountability to a public increasingly confused as to who was responsible for outcomes…the course we are on leads to *de facto* abolition of the States, with the logical result of the States becoming a dead weight in the baggage of our constitutional make-up. As that becomes a reality, the danger is that the States will become a real impediment to an efficient and competitive nation".[9]

Of course, Mr. Goss was talking about more than taxation matters. The Premier of Western Australia, Mr. Richard Court, produced a comprehensive account of the steps in increasing the power of the central government in a document called *Rebuilding the Federation*.[10] But the loss of revenue raising capacity is at the heart of the decline in Australia's federation, and it is this that needs to be reversed if we are to reinvigorate it.

What is to be done?

Speaking to the Liberal Party in Perth recently, the Prime Minister, Mr. John Howard said he didn't believe that:

> "…..we can go on any more with a taxation system where the relations between the Commonwealth and the States are so profoundly out of balance and so screamingly in need of reform and change".[11]

Addressing reform of Commonwealth-State financial relations is principle "e" in the Prime Minister's five principles for tax reform announced in August, 1977 in the wake of the *Ha Case.* Those of you acquainted with the alphabet will have immediately realised that this makes it the last on the list, but perhaps we shouldn't read too much into that. So what will the Federal Government do to give effect to its commitment to reform? We will know the answer in a few

days,[12] so what I propose to do today is set up a framework against which this aspect of the Howard Government's tax reforms can be judged.

There are two alternatives open to the Commonwealth that would give the States substantially increased revenue capacity. These are *revenue sharing* and *base sharing*.

Revenue sharing is where the States receive an agreed share of a tax, or group of taxes, raised by the Commonwealth. *Base sharing* means the States independently access a tax base used by the Commonwealth.

Both these methods have been used in the past. For example, for eight years between 1976-77 and 1984-85 revenue sharing (of the proceeds of the personal income tax) replaced financial assistance grants to the States. Since Federation various tax bases have been shared by the Commonwealth and the States, including income tax, land tax, death duties and taxes on tobacco, liquor and fuel. However, there are currently no shared tax bases.

Of the two reform options, the only one that offers the prospect of restoring greater financial responsibility to the States, which is crucial to rescuing the federation, is base sharing. The principal reason for saying this should be obvious. Revenue sharing, no matter how it is dressed up — for example, as a legislatively guaranteed share of revenue — leaves the States dependent on the Commonwealth. History shows that, whatever the Commonwealth promises, it can, and in all probability will, be reneged on at some point in the future.

To replace existing State transactions taxes and franchise fees with a "guaranteed" share of a Commonwealth revenue stream would extend the proportion of revenue raised by the Commonwealth to over 80 per cent, and if abolition of pay-roll tax were to be included, well over 80 per cent. Such a gross fiscal imbalance offends profoundly against the most fundamental fiscal principle of a federation, namely that "the individual States should possess an independent and uncontrollable authority to raise their own revenues for the supply of their own wants", to quote Alexander Hamilton in *The Federalist Papers*.[13]

The Intergovernmental Relations Division of the Treasury Department of Western Australia (that such a division should exist speaks volumes about the current condition of the federation) has produced a comprehensive discussion of the pros and cons of revenue sharing and base sharing.[14] It examines the alternatives against eight criteria: Compliance and administration costs; stability of arrangements; States' revenue requirements; accountability; efficiency; equity; State flexibility; and Commonwealth national responsibilities. I intend to compress the discussion and combine some of these criteria, but I commend the discussion paper to you.

Compliance and administration costs

Compliance and administration costs are lower under a revenue sharing arrangement. But a properly designed base sharing system can minimise any additional costs. Due to the High Court's interpretation of s.90, base sharing means sharing the income tax base. When the Commonwealth took over income tax in 1942, the system was a complex and inefficient one. There were 22 separate State taxes on incomes, definitions of taxable incomes varied from State to State, and taxpayers deriving income from more than one State had to submit separate State tax returns. None of these problems need apply with any new base sharing arrangement.

Stability of arrangements

As I have already observed, history suggests any revenue sharing arrangement is unlikely to be an enduring one. The WA Treasury is surely right when it concludes that it is too much to ask the Commonwealth to be the guardian of the States' interests as well as its own. Entrenching revenue sharing arrangements in the Constitution is a possible solution, but one with small chance of success. However, provided any State share of the income tax base is raised under State legislation, there are greater prospects of stability in the arrangements under base sharing.

States' revenue requirements, accountability and VFI

The need for the States to have revenues that match their expenditures is central to a functioning federation. Not only has the Commonwealth dominated the revenue base since World War II, but it has also steadily reduced general purpose grants to the States, both as a share of GDP and as a share of its tax revenue. This has increased the resort by the States to bad taxes to rebuild their revenues.

Nor is this the only potential distortion of revenue sharing. Revenue sharing arrangements based on a fixed share of Commonwealth tax revenues mean that any change in the Commonwealth tax rates flow through to the States, for good or ill. Such arrangements can also, if limited to one tax such as income tax or a GST, provide an incentive for the Commonwealth to exploit non-shared taxes. Base sharing, with the States free to adjust tax rates (within limits) under State legislation, provides far more autonomy and hence greater ability to raise the revenues needed to meet demand for services. It also makes the connection between demanding more services and higher taxes clearer to State taxpayers. Accountability is a central issue in restoring vitality to Australia's federation and is inseparable from the revenue sharing arrangements that apply.

The current extreme fiscal imbalance reduces the accountability of both the Commonwealth and State governments, as is generally recognised, although not by the Commonwealth Treasury. In the current issue of Budget Paper No.3, *Federal Financial Relations 1998-99*, Treasury argues that vertical fiscal imbalance has its virtues. It cites three:

- There are considerable advantages for Australia as a whole, from both an economic and an administrative perspective, from the maintenance of a national taxation system.
- A "certain level" of VFI is also necessary if the Commonwealth is to distribute payments to the States for horizontal fiscal equalisation.
- The provision of grants to the States in the form of Specific Purpose Payments is a means for the Commonwealth to pursue its policy objectives in areas where the States are the primary service providers.

None of these justifies the current extreme, indeed unique, level of VFI in Australia. Treasury also addresses the issue of accountability. It asserts that:

> "…in practice, State governments are accountable for their budgetary decisions at the margin. The States raise around 58 per cent of their total revenue, and increases in State expenditures have to be financed largely through increased State taxation. Financial market scrutiny also has a bearing on a government's accountability for its spending decisions".[15]

This is an argument about State incentives to be efficient and not waste money on unwanted services. It is largely irrelevant to VFI, because it ignores the lack of Commonwealth accountability, the ability of States to cost-shift to the Commonwealth and the extreme degree of VFI in Australia. Base sharing is clearly the superior alternative under this criterion.

Efficiency

Public finance literature offers two opposed views on the efficiency of revenue sharing versus base sharing. The first is that financial self-reliance increases efficiency through the operation of competitive federalism. The opposed view is that there are efficiency-distorting externalities when States have taxing powers. These include inefficient location decisions by firms and individuals because of differing State fiscal capacities, and the argument that vertical fiscal competition (between the Commonwealth and the States) can lead to overtaxing, while horizontal competition (between the States) can lead to undertaxing of mobile factors. In practice this is an issue of good tax design and not an argument against base sharing.

Equity

Under a tax base sharing arrangement, tax competition can lead to a less progressive tax structure, but this is also a tax design issue, which I return to in the next section. Inequity may also arise if some States cannot match the fiscal capacity of others. As I have indicated earlier, the extent to which this should be compensated for is a debatable issue. However, under present arrangements any move to base sharing would undoubtedly be accompanied by continuation of the Grants Commission process of fiscal equalisation.

State flexibility

As the WA Treasury discussion paper notes, there is a large issue here about the type of federation Australians want. To what extent do they believe that variations between States — reflecting different community choices — should be part of the federation? While they have traditionally accepted wide variations in taxing and spending among the States, it is hard to know to what extent this reflects choice, as opposed to ignorance, apathy or lethargy. However, I believe that in a healthy federation, competitive federalism and the variety it brings is a crucial feature. It provides scope to respond to different community choices, provides competing models of service provision and funding, a greater capacity to respond to change, and to recognise the differing needs of different States more efficiently than a centralised system.[16] A base sharing system plainly provides more scope for this desirable flexibility than revenue sharing can.

National responsibilities

This is the last resort of the centralist . It is claimed that allowing the States access to the income tax base will undermine the Commonwealth's ability to manage the national economy and income redistribution and welfare. On economic management, the claim is often made that the modern economy could not have been envisaged by the Founding Fathers, and requires a greatly expanded role for the central government. In fact, there is no reason why tax base sharing need have any impact at all on the Commonwealth's ability to conduct macro-economic policy. The extent of any imaginable base sharing would not interfere with the conduct of fiscal policy, and monetary policy is unaffected. Arguably it could enhance the conduct of economic policy by providing greater flexibility to manage differences in economic cycles between States. As for redistribution, this too is a tax design issue, to which I now turn.

How would income tax sharing work?

Twice in this decade the States have agreed on a method for sharing the income tax base with the Commonwealth, as they did before 1942. The first occasion came out of the Special Premiers' Conferences, the first of which was held in Brisbane in October, 1990. The Premiers and then Prime Minister Bob Hawke came close to agreement on a State income tax that would have been initially set at 6 per cent, but the process was sabotaged by Mr. Paul Keating as part of his challenge for the leadership.[17] The second occasion is this one, where submissions have been put to the Commonwealth for a State income tax that would "piggyback" on Commonwealth income tax as part of its tax reform package. The proposal is that the Commonwealth would vacate part of the income tax field, to make room for the States without an increase in the overall level of income taxation. The following details come from the submission of the Western Australian Government to the Commonwealth, but it reflects the agreed position of the States.[18]

First, how much money are we talking about? Commonwealth grants to the States in 1997-98, after adjustment for the so-called fiscal contribution by the States to the Commonwealth Budget, and the Commonwealth s.90 safety net payments to compensate the States for the loss of franchise fees on tobacco, fuel and alcohol, totalled $33.8 billion. Full elimination of VFI would thus require an increase in the tax-raising capacity of the States of nearly $34 billion.

The States recognise this is unachievable, and in any case support retaining some level of Commonwealth grants for horizontal fiscal equalisation purposes (or the smaller States would not have signed off on the proposal) and their desire to retain some Specific Purpose Payments "to address special needs". So the proposal is to replace FID and BAD, business stamp duties and stamp duties on motor vehicle transfers, the s.90 payments put in place after *Ha,* and a reduction in Commonwealth grants of $12 billion.

Replacement of the transactions taxes and stamp duties would cost $5.4 billion, replacement of the s.90 safety net payments $5.2 billion, and with the proposed reduction of $12 billion in Commonwealth grants, would require State access to the personal income tax base (corporate income tax would be the preserve of the Commonwealth under the proposal) of $22.6 billion.

There is no constitutional barrier to this proposal, since the States have the power to access the income tax base. It would, however, require the co-operation of the Commonwealth, given the High Court's endorsement of the Commonwealth's right to blackmail the States into not levying separate income taxes by threatening to cut grants and refusing to make room in the income tax base. Nor does the proposal pose any insurmountable problems in theory or practice, provided it meets certain design requirements.

The key requirements are:

- No increase in the overall tax burden, to make it politically palatable, as well as being desirable on other grounds. This means the Commonwealth makes room for the States in its income tax base by reducing its marginal income tax rates. To illustrate, the current Commonwealth marginal rate on incomes between $20,700 and $38,000 is 34 per cent, and on incomes over $50,000 is 47 per cent. Under the States' proposal, the new Commonwealth marginal rates would be 22.67 per cent and 31.33 per cent respectively, and the State rates would be 11.33 per cent and 15.67 per cent respectively, piggybacking on the Commonwealth rates. This would preserve the progressivity of the income tax and not interfere with the Commonwealth's ability to deliver personal income tax cuts. The States would fix these rates for an agreed period of time, after which they would be free to vary their marginal rates, but all States would set rates on a consistent basis.
- The tax base would be the Commonwealth's, and the States would be unable to vary this base via State rebates or exemptions. This gets around the complexity problem that applied before World War II.
- Tax collection would be by the Commonwealth tax office, using a single tax form for both Commonwealth and State components. In order to ensure that the State component of the tax was visible and within the control of the States, each State would introduce its own income tax legislation, and there would be separate identification of the Commonwealth and State imposts on assessment notices, pay slips and group certificates.
- There would be a simple and uniform residence test to determine liability for State tax, and the States would only tax individuals.
- There are some other minor details, but these are the main ones, and show that allowing States back into the income tax base is quite feasible. That begs the big question, of course: will it happen?

The politics of tax reform

In a recent speech to a conference on reform of Commonwealth-State financial relations, Victoria's Treasurer, Mr. Alan Stockdale, acknowledged that the decline of the federation's finances was not just the Commonwealth's fault:

> "For much of the history of our Federation , States have been happy to allow the Federal Government to progressively take over revenue-raising responsibilities, in return for greater grants from Canberra".[19]

He went on to claim that this tradition had been reversed, but has it?

Consider the last Premiers' Conference in March this year. I had written an article that appeared in *The Australian* on the Tuesday before, warning of the decline of the federation and suggesting that, because of the importance of tax reform to its renewal and the limited time available, the Premiers should demand of Howard a special meeting on the issue. When I arrived in Canberra the night before the Conference I discovered that the article had been widely read by Premiers and State officials, who assured me that they had arrived at a common position on a State income tax, and that it would be strongly put to the Commonwealth the next day. Knowing from long experience that hanging around outside Premiers' Conferences can be a frustrating business, I spent the morning at the Australian National University and went to Parliament House at midday. To my amazement, the Conference was over. The Premiers had walked out in a stunt over health funds. Tax reform had not been discussed.

I ran into the Prime Minister in the corridor a few minutes later. He was angry and puzzled by the States' behaviour. He had been prepared for a genuine discussion of tax reform, indeed expected one, but the States would not get another chance. Nor have they.

It is truly said that you cannot help those who will not help themselves. There will be no State income tax in Thursday's tax package, despite the Prime Minister's talk of a "screaming" need for change. Instead, a version of revenue sharing will be offered via the GST. If the States accept it, the process of *de facto* abolition of the States will be virtually completed.

This is a test of their integrity and resolve the States cannot avoid. In particular, Victoria's Premier, Mr. Jeff Kennett, Mr. Bob Carr in New South Wales and Mr. Richard Court in Western Australia and/or their Treasurers are on the record declaring the unacceptability of revenue sharing as a solution to the problem of fiscal imbalance and the reform of federal-State finances. If this is all they are offered, then they should openly and vigorously oppose this aspect of the tax package. If the States accept it, the process of *de facto* abolition of the States will be virtually completed.

Of course, it is only too possible that the tax package will never make it into legislation, either because John Howard loses government, or because government itself becomes such a dubious exercise in the post-election Parliament. I venture to suggest that this parlous state of affairs has not a little to do with the decay of the Australian federation. The phenomenon of Hansonism is in an important respect its product, with its expression of a feeling of powerlessness and irrelevance. Re-invigorating the federation must be a crucial part of the process of national renewal.

Postscript

A former Australian Prime Minister, Mr. Paul Keating, once remarked at a Premiers' Conference that he would hate to get caught between a State Premier and a bucket of money. Mr. Keating, a centralist, conducted his own relations with the States on the cynical "bucket of money" principle. In fairness, it must be said that in doing so he was continuing in a long and dishonourable tradition of Commonwealth-State relations. We now know that Prime Minister John Howard proposes to do the same, although he would like us to believe the opposite.

As predicted, the States will not be given access to the income tax base. Instead they are to be "given" the new GST as a States' tax. For those, like this Society, concerned with the alarming degree to which Australia's federalist Constitution has been subverted by centralist governments in Canberra and the High Court, the proposed reform should be seen as little better than fiscal fraud.

It is true that the States will have access to revenue from a broad-based growth tax, for as long as the arrangement lasts. This is not an insignificant qualification. Revenue sharing has been tried before, and was abolished when Canberra decided the States were doing too well out of it. The new arrangement, described by the Prime Minister as an historic change in relations between the Commonwealth and the States, and by the Treasurer as the best financial deal the States have had since uniform taxation came in as a temporary measure during the Second World War, actually

increases the extent of vertical fiscal imbalance — the cancer eating away at the federation. As much was acknowledged by Victoria's Premier and self-declared champion of the States' case for reform, Mr. Jeff Kennett.[20]

The GST is not a State tax. It is a Commonwealth tax, with the rate set by Canberra, with the States unable to alter it, and with Canberra able to change the arrangement by putting legislation through a federal Parliament that has shown itself to be no defender of the States. Even before the GST is introduced it comes with a raft of conditions attached, and while it will replace the general revenue assistance grants to the States, this is not quite the gift it seems. According to Commonwealth Budget Paper No. 3, in 2000-01, when the new tax package is to be introduced, general revenue assistance grants will total $18.6 billion , while Specific Purpose Payments will total $15.8 billion. The latter will continue — at the whim of the Commonwealth. Thus Canberra still has a substantial lever over the States' spending programs, and one it can use to dictate policy.

The decline of the federation continues, as Deakin foresaw, with the States increasingly constitutional relics bound to Canberra's chariot wheels. If it is ever implemented, and for as long as it continues, the gift of GST revenue to the States will make them even less accountable for their revenue raising and probably, therefore, even less responsible in their spending decisions. Australia's federation is in a terminal condition, but as long as expedient State Premiers and a cynical Commonwealth are prepared to play the "bucket of money" game, then like a patient on life support whose vital functions have ceased, it will continue to offer the semblance of life.

Endnotes:

1. The expression was used by a former Victorian Premier, James Service, at a Constitutional Conference in February, 1890. Quoted in R.L. Mathews and W.R.C. Jay, *Federal Finance,* reprint of the 1972 edition by Centre for Strategic Economic Studies, Victoria University, Melbourne, 1997.

2. Quoted in *Federal Finance, op. cit.,* p.41.

3. B.Grewal, *Economic Integration and Federalism: Two Views from the High Court of Australia* in *Upholding the Australian Constitution,* Proceedings of The Samuel Griffith Society, Volume 9 (1997), pp.130-131.

4. *Ngo Ngo Ha & Anor v. State of New South Wales &0rs* and *Walter Hammond & Associates Pty Limited v. NSW & Ors* (1997) 71 ALJR 1080.

5. *Parton v. Milk Board (Vic),* 1949.

6. *Federal Finance, op. cit.,* p.5.

7. Professor Wolfgang Kasper, *Property Rights and Competition: An Essay on the Constitution of Capitalism,* The Centre For Independent Studies, Policy Monograph 41, 1998.

8. Des Moore, *Duplication and Overlap: An Exercise in Federal Power* in *Upholding the Australian Constitution,* Proceedings of The Samuel Griffith Society, Volume 6 (1995), p.37.

9. Wayne Goss, *Re-inventing the States,* 2020 Vision Conference, 19 September, 1994.

10. Richard Court, *Rebuilding the Federation: An audit and history of State power and responsibilities usurped by the Commonwealth in the years since Federation,* February, 1994.

11. John Howard, *Address to the Western Australian Division's 49th Annual Conference,* 25 July, 1998.

12. This paper was delivered four days before the Howard Government presented its tax reform proposals on Thursday, 13 August.

13. *The Federalist Papers, No.XXXII,* quoted by Sir Harry Gibbs in his introduction to *Reshaping Fiscal Federalism in Australia,* Neil Warren (ed.), Australian Tax Research Foundation, Conference Series No. 20.

14. *Revenue Sharing or Tax Base Sharing? Directions for Financial Reform of Australia's Federation,* Treasury Department of Western Australia, Discussion Paper, June, 1998. The New South Wales Treasury has also been active in this area, as a sponsor of two conferences on fiscal federalism. The first, in 1997, led to the volume quoted above, *Reshaping Fiscal Federalism in Australia.* The proceedings of the second, in June, 1998, will be published as *State Taxation: Repeal, Reform or Resignation?*

15. Commonwealth Budget Paper No. 3, *Federal Financial Relations 1998-99*, p.15.

16. There is certainly ample evidence that both individual Australians and firms are prepared to shift across State borders in response to differing tax and regulatory regimes. For example, the move of retirees to Queensland when it abolished death duties, and the registration of firms in the Australian Capital Territory to avoid or reduce stamp duties. It may also be significant that no referendum to change the Federation in any basic way has ever been successfully proposed, as Professor Campbell Sharman suggests. See *Agenda,*Volume 5, Number 3, 1998.

17. A brief account of the 1991 proposal is given in the speech by Mr. Wayne Goss, *op. cit.*.

18. Government of Western Australia, *Submission from Western Australia on National Tax Reform and Reform of Commonwealth/State Financial Relations,* May, 1998.

19. Alan Stockdale, Treasurer of Victoria, speech to ATAX conference on *A State Tax Reform Package,* June 11,1998.

20. At a press conference called to promote the Howard Government's tax package Mr. Kennett said:

> "What we have is… what is being offered is certainly better than we have now. We have greater revenue certainty, although it does increase the States' financial dependence on the Commonwealth. In other words, it doesn't address the issue of VFI. *In fact it may even make it worse*. But having said that we think the deal is substantially better." (Emphasis added).

The bucket of money again.