

The Federal Council of Australasia

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The Federal Council of Australasia is a political phenomenon, almost unclassifiable, and so entirely local in character and origin that it may be termed indigenous. Unique as the platypus, like that extraordinary animal it is a perfectly original development compounded from familiar but previously unassociated types. It remains singular even among all the brood of local Governments of which the House of Commons has been the prolific parent.

Upon examination it discovers some varied relationships, chiefly to the Second Chambers of democratic communities. Our several colonies, each of which retains its own complete Legislature unimpaired, form its constituencies, returning an equal number of representatives to its meetings without regard to their size, wealth, or population, just as do the States in the American Union and the Cantons in Switzerland. The elective principle prevailing in those republics is, however, set aside in the Council, all of whose delegates, as they are sometimes termed, are at present nominees. In this one respect it finds a partial precedent in the Canadian Senate. Here its fleeting resemblance to these Upper Houses ends.

A Puzzle Amongst Parliaments!

Its first vital distinction is that it has no fellow chamber; essaying its legislative tasks absolutely single-handed, after a fashion long discarded in the United States, and extant only in three provincial Canadian constitutions. Its second distinctive feature is that the right of secession is expressly reserved to every colony. Again, unlike the American Senate and the Swiss Council of States, it shares no executive authority, and unlike both these and the Canadian Senate, its members are unpaid.

The Administrative Committee in Switzerland, known as the Federal Council, is a body between which and its Australasian namesake no analogy exists. The Australasian Council is purely legislative. Its Standing Committee, appointed at the close of each session to act as custodian of its interests during the recess, is practically confined to preparations for the next meeting. Then our Council has more rigorous constitutional limitations than any of the bodies to which it has been compared. Its sphere of independent legislation is small, and upon most of the subjects with which it is empowered to deal by statute its authority remains dormant until after the receipt of a request for its exercise upon one or more of those subjects from two or more of the colonies. The legislation then passed

applies, not to the whole federation, but only to the constituencies from which the request has come. Another singularity is that the Council has included, and can still include, colonies such as Fiji, which, not having attained responsible Government, are still in leading strings to London, receiving their officers and taking their instructions from the Colonial Office. The only case in which a similar difficulty has been confronted has been in the territories of the American Union, which have no representation at all in its Senate, and only a voice without a vote in the House of Representatives. The money powers of the Council are practically nil; it has no means of raising revenue, and is absolutely dependent for its funds upon the colonies included within its boundaries, who are required to find the necessary expenses connected with its business in sums proportionate to population.

A Patchwork Realm.

In addition to these inherent differences between the Australasian Council and the chambers with which it has been contrasted, there remains the fact that, owing to the abstention of New South Wales and South Australia, the colonies embraced within its control are nowhere contiguous one with another, but are separated in each case either by sea or the wide areas of their unfederated sisters. Consequently it becomes more than ever impossible to draw any comparison between the two unions among great dependencies comprised within the British Empire. The powerful Parliament of the Canadian Dominion, with its highly organised and strongly centralised supremacy over a vast and unified domain contained within great natural boundaries, could hardly recognise its kinship to the numerically small, territorially divided, legislatively limited, financially and executively impotent Australian chamber, based upon the loosest kind of confederacy, maintained by brief biennial sessions, among distant and competing rivals for commerce and influence.

The anomalies of the Federal Council are further increased by the fact that it has been endowed with an extra-territorial sphere of legislation wider than that conceded to Canada, or, indeed, to any other local Government under the Crown. It has other possibilities which, so far, its career has not unfolded, though they exist, at all events in germ, in its constitution.

A Catalogue of Negatives.

Meanwhile the misconceptions engendered by its novel character afford

plenty of matter for the scoffer; for it is at once influential and feeble, dependent and independent, simple and complex, definite in many details, and yet extremely indefinite in jurisdiction. How far it has travelled from the customary British model may be gathered from the circumstance that it transacts its business without a Ministry or a department, without a leader or an Opposition, without a party or a programme, that there is no necessary continuity of representation, or similarity in the mode of appointment of representatives, or fixed area within which its legislation has force, that it is vagrant in domicile, and without a roof to shelter it, without a foot of territory to rest upon, without a ship or a soldier to protect it, without a single man in its service, or a shilling of its own to pay one.

The Genesis of a Parliament.

Fortunately for the student, this remarkable political adaptation had its origin in such recent times as to render speculative researches unnecessary; though, indeed, if its entrance into the realm of practical politics had been wrapped in mystery, the briefest consideration of its peculiarities must have explained them and their purposes. Like all other federations, it arose under pressure of external danger. Until a decade since, the problems confronting the Australasian colonies were almost wholly those of self-development. After their successful resistance to the continued importation of convicts from the mother country, the settlers plunged into the task of subduing the wilderness and uncovering its treasure hoards with a heartiness which left them comparatively indifferent to what was transpiring beyond their borders. They were aroused from their engrossing home pursuits by a revival of their ancient apprehensions when in 1882 France commenced to pour her recidivistes into New Caledonia, from whence they overflowed now and then upon the mainland. There were rumours of the possible annexation of the New Hebrides, in order to extend the area of their open prison houses. This roused the missionaries, whose chief centres of support were found in the populous southern colonies. There were apprehensions, too, that the earth-hunger of European nations was being tempted by the possibilities of New Guinea and the adjacent groups.

Forcing The Hand of The Colonial Office.

The future of these tropical islands was a matter of some immediate concern to Queensland, where the reins of power were then grasped by perhaps the most masterful political leader of the continent, whose

boldness of conception and vigour of action more than once exhibited the same adventurous spirit which has deservedly brought fame and fortune to Cecil Rhodes. Sir Thomas M'Ilwraith, on the mere rumour that Germany had designs upon New Guinea, despatched a police magistrate, with instructions to hoist the British flag upon as much of that island as was not already under the control of the Dutch. The Colonial Office, true to the inherited tradition that its main purpose is to check too aspiring and energetic colonists, who have from time to time won whole regions in its despite, and oppressed by the chilly indifference of its then chief, Lord Derby, sneered at the action, contradicted the rumours, and disavowed the annexation.

Sir Thomas M'Ilwraith was not to be baulked by official negativism or the cynicism of a Secretary of State. All his brother Premiers had cordially applauded and supported his action; and when Lord Derby indicated that no colony could be permitted to enlarge the Empire in this spontaneous fashion, he at once, with statesmanlike decision, placed him upon the horns of a dilemma, cabling a query whether the colonies, acting as a whole, would be allowed a voice in extra-territorial questions of this nature, which were plainly of the utmost importance to Australasian destinies. The qualified and hesitating reply from Downing-street, where gradually the unity and force of colonial opinion was making itself felt, was to the effect that great weight would be attached to any conjoint expression of colonial opinion. A Convention of Premiers and their colleagues was at once prepared for, with the design not only of dealing with the difficulties then pressing, but also to provide for the creation of a Federal Council, which, in the future, would be enabled to act promptly, and speak with authority upon the foreign relations of the group. At this stage Sir Thos. M'Ilwraith, perhaps foreseeing the approaching downfall of his Ministry, specially abdicated his position as Federal leader in favour of the Hon. James Service, Premier of Victoria, who had been affording him from the first a most enthusiastic support. His presage was verified, for when the Convention met at Sydney in November, 1883, under the Presidency of Sir Alexander Stuart, it was Sir Samuel Griffith who attended as Premier of Queensland.

What The Hour Needed.

The Ministerial Convention of 1883 boldly faced the then situation. It was felt that the hour had not yet struck for the complete Federation of Australasia after the Canadian plan, but it was also realised that some organisation must be established in order to deal on behalf of the colonies

with events in the Pacific and cognate possibilities. In addition to this, it was desired to make a commencement in the way of Federal treatment of some other matters of common interest. Naturally there was an indisposition to entrust to a small body, not necessarily elective, too great a control over the affairs of colonies which already possessed admirable constitutional machinery for the transaction of business within their own domains. The outcome, therefore, by way of compromise, was the present Federal Council. It was endowed with independent legislative power, hitherto possessed by no colony or group of colonies, for dealing with the relations of Australasia with the islands of the Pacific, and with fisheries in Australasian waters beyond territorial limits, as well as with the prevention of the influx of criminals, though this last could have been dealt with severally. For convenience, the Council was enabled to pass laws permitting the service of civil process, and the enforcement of judgments, and of criminal process beyond the limits of the colony from which the process or judgment emanated. A number of other matters of the first importance, such as general defence, patents, quarantine, and the status of companies, were specially included in a sub-clause, which provided that they and "any other matter of general Australasian interest" might be legislated upon by the Council for such colonies as might invoke its aid in those directions. Thus large and important powers were conferred upon it with only such restrictions as were necessary for safety.

The Justification of History.

Whatever the surprise, therefore, of those who criticise it without a knowledge of its history, the circumstances out of which it was evolved, and the ends sought to be attained, only require to be known for its apparent anomalies to disappear. It is exactly what it was intended to be, a chamber capable of dealing with exterior emergencies as no power short of the British Government could formerly deal with them, and at the same time fitted to make such a beginning of Federal action as might illustrate its value while preparing the way for a more effective and complete union. The work begun by Sir Thos. M'Ilwraith was completed under the supervision of Mr. Service, in a manner which demonstrates in a striking way the elastic capacity of representative institutions to fit themselves to their surroundings, and the wise confidence of the mother country in the capacity of her colonies. By an audacious combination of precedents a new political need was promptly met with a new political organisation.

The Secret of Failure.

The Federal Council has not realised the anticipations of its founders, and has certainly disappointed a public that seems never to have clearly understood how its sphere of activity is bounded. This sphere has been further diminished by accident. The Council was designed for Australasia, but has not even included all the colonies on the mainland. New South Wales and New Zealand have never taken part in any of its proceedings, and South Australia has only appeared at one session out of six. Never during its whole history have the proceedings of the Council been unfettered. Lacking the moral support which a sense of unity would have imparted, it has hesitated, wisely or unwisely, until some of its best opportunities have been missed. At first it was thought judicious not to exercise all its functions until the remaining colonies should give in their adhesion. When South Australia joined in 1889, it was felt that the representation accorded to the colonies was too small to permit of the thorough discussion of great questions. While there were but two representatives from each Parliament, these had been naturally chosen from the Ministry of the day, thus communicating a party colouring to its proceedings. It was then a coterie rather than a Council. The decision was therefore arrived at to raise the number of representatives to five, so as to permit of the leaders of the Opposition from each colony joining with their Ministers in Federal work. By the time this increase was granted, South Australia had unfortunately failed to secure a majority in her Upper House in favour of rejoining the Council, while in Queensland and West Australia the whole of the delegates were still chosen from the Ministerial side.

What It Has Done.

Yet, though suffering thus steadily from suppressed vitality, the Council has given an earnest of its capacity in more ways than one. It has not legislated in regard to the relation of Australasia to the islands of the Pacific—a somewhat vague charter—in view of the claims of foreign powers, nor yet as to the prevention of the influx of criminals, though it has protested with vigour against the continuance of the despatch of recidivistes to New Caledonia. Quite recently the French Government have abandoned this practice, a result chiefly, if not wholly, to be credited to the activity of the federated colonies. The Council has dealt with both the Queensland and West Australian fisheries beyond territorial limits, and has thus conferred a practical boon upon colonies which, in its absence, would have been quite incompetent to regulate the valuable pearl and beche-de-mer industries conducted more than a league from their coasts. It has further enabled federal garrisons to be stationed at Thursday Island and at

Albany, as the first steps towards federal defence. Acts have been passed providing for the service of civil process, and the enforcement of judgments of the courts of the several colonies within the Federation, for the interpretation of the Acts of the Council, and for their proof throughout its constituencies. In addition to this, many issues relating to the New Hebrides, Samoa, the Pacific cable, the constitution of the Council, and the steps necessary to be taken to enlarge or supersede it have been discussed, and representations made under its statute to the mother country in some cases. It has obtained from its constituencies the references required prior to legislation upon the great problem of general defence, as well as upon the questions involved in the status of companies and the naturalisation of aliens from an intercolonial point of view. But the Council has refrained from dealing with these references, out of consideration for those colonies which are still unrepresented, and whose interests might have been seriously affected both positively and negatively by the adoption of a Federal law, from whose benefits they were by their own acts excluded. This self-restraint is perhaps tactically justifiable, but nevertheless considerably lessens the number of its statutory trophies, and furnishes fresh material for the scorn of its adversaries, who ignore its generous self-abnegation when mocking its barren record. On the other hand, this policy furnishes the best and most sincere testimony to the genuineness of the Federal feeling which has governed the Council under all provocation.

New Schemes.

Ill-starred as the career of the Council may appear, if its formal achievements are measured against the anticipations which hailed its birth, it must not be forgotten that it has exercised an undeniable, though informal, influence upon the federal cause—serving often “to spur the sides of the intent” of those outside its ranks. It was when South Australia signed its roll that the prospect of an approaching isolation of New South Wales stimulated into fresh activity the mind of its then Premier, always open to large ideas. Sir Henry Parkes was characteristically impressed by the insufficiency of the Council from the standpoint of the imagination, and soon after initiated a movement for the creation of a completely equipped Parliament of Australia. The shadow of this great enterprise has rested heavily ever since upon the Council, which could not but be dwarfed by comparison. Under his presidency, in the light of foreign constitutions and of local experience, the Convention of 1891 shaped a Bill which, by its sixth clause, repealed the Federal Council Act of 1885, as a preliminary to the establishment of the Commonwealth. Apparently, then, the Council's

life was over. But only three of the seven colonies concerned brought the Bill before their local Parliaments. In South Australia it had not found its way through the popular chamber before the session closed. In Tasmania, though it passed the Assembly, it was unfortunate in the Upper House. In Victoria alone it passed both chambers, and needed only an agreement between the two Houses upon a few of their amendments to make its acceptance complete.

The agitation, obstructed in its progress, then took a new course. New South Wales in 1893 obtained from Sir George Dibbs an alternative scheme for the re-union of that colony with Victoria as a prelude to the unification of the whole continent, but the proposal merely furnished food for discussion.

The Conference of Premiers.

In 1894, Mr. Reid, his successor in the Premiership, approached the problem from another point of view. He called a conference of Premiers, which, from necessity, as well as convenience, assembled at Hobart last month, where four Premiers were already gathered for the 1895 sitting of the Federal Council. His plan of campaign was that, instead of resuming the discussion of the measure of 1891 in the local Parliaments, those bodies should be invited to authorise the election of a Convention for the preparation of a Constitution Act (probably that of 1891 slightly amended), which should then be submitted to the direct vote of the electors before being transmitted to Parliament for its final acceptance or rejection.

Prior to this practical scheme being made public, some members of the Council expressed to the reporters their disapproval of any meeting of the Premiers being held for such a purpose at that time and place. When it was published, there was an explosion in the Council itself, popularly attributed to its jealousy of the Conference. This was an incorrect reading of the facts. In truth, the Premiers' Conference would have been welcomed by all, as it was by most of the members of the Council, if it had been engaged upon any other business than that of Federation.

What Offended The Federal Council.

The opposition shown was not to them, but to the pressing forward of a closer Federation. Sir John Forrest and his colleagues, always excepting Mr. Hackett, were perfectly satisfied with the Federal Council and its promise of gradual growth. In their judgment West Australia could not with advantage enter a Federal Union which implied the sacrifice of the

tariff they levy upon the products of their neighbours. Some, at least, of the representatives of Queensland shared a similar apprehension, chiefly because they doubted whether the white artisans of the southern colonies would take their view of the employment of black labour upon their sugar plantations. This was the real root of the first antagonism exhibited to the Premiers' meeting. When Mr. Reid's Federal project was announced it furnished an additional grievance to some members because of its democratic character, evoking the spirited and able attacks of Mr. Hackett, of West Australia, and Mr. Byrnes, the Attorney General of Queensland.

Hence it came about that two colonies which had made no attempt whatever to discuss the Commonwealth Bill of 1891 in their own Parliaments, now pressed and passed a resolution in the Council in favour of its early consideration.

The Victorian Delegates.

The Victorian delegates, though naturally approving of the course proposed, which had been followed in their own colony, unanimously declined to vote upon the motion, as it could certainly have been construed as equivalent to the rejection of Mr. Reid's scheme. Their attitude was that of men who decline to quarrel as to the means proposed for the attainment of a common end, providing they are efficient. If the other colonies would pass the Commonwealth Bill they were content; if their neighbours adopted Mr. Reid's method of obtaining it they were equally content; and remained determined in any case to offer no obstacle whatever to any procedure which might reasonably be expected to lead to union. The open antagonists of Federation anywhere are few and insignificant; the covert antagonists, who are more dangerous and powerful, consist of those who desire its postponement for the present, in what they believe to be the interests of their several colonies, or who fear the liberal lines on which it is certain to be founded. It is these sentiments which have recently found utterance in Hobart, arousing applause and condemnation elsewhere. If these critics speak out it will not be to express jealousy of their Premiers. They will respond to the cry of Federation with an emphatic "Not yet."

The Council's Future.

It would not have been remarkable if the Federal Council, in spite of its object and its inspiration, had sought to resist a more perfect fulfilment of both. "The idea creates the institution, and the institution crushes the idea," too often for us to affect surprise if it had done so in this instance. But the

Council, fortunately for its reputation, has not gone so far, and Federalists everywhere will be gratified by that knowledge, since it still symbolises the first fruits of their hopes, and may possibly require to be regarded as a mainstay of the cause for some time to come. The Federal Council possesses greater powers than it has ever exercised, and since its numbers have been increased not only might those powers be employed without restraint, but they might be enlarged without danger. Those who now eulogise the Council because it has been chiefly endowed with authority freshly derived from the Crown, may be disposed to praise it less warmly when they realise that its future growth can only be assured by sacrifices of some of the privileges enjoyed by their local Parliaments. What the Council gains the others must lose. Particularly if it should acquire executive functions or aim at an independent revenue, its present champions would find themselves confronted by the same necessity for local subordination which kindles their resistance to the agitation for complete union.

The Merits of The Federal Council.

Federalists, on the other hand, prize the Council, both for what it is and for what it foretells. As an institution they honour it, seeking to preserve it faithfully, to defend it resolutely, to strengthen and elevate it at every opportunity, as the minister and means of their great idea. They make it no idol. For the fuller expression and higher realisation of that idea they would sacrifice it without hesitation, and even shatter it without scruple, should it seek to confine or stultify the aspiration that gave it birth, by which it has been maintained, and whose development it exists only to ensure. It is an organ of national life—though a transient organ—which, from its inception, was doomed to be superseded. The feeling evoked on its behalf has been a Federal feeling solely—a Federal Council feeling hostile to Federation is not conceivable. Perhaps it has had its day. The colonies of North America lived for about the period for which it has now endured under a some what analogous confederation—lived under it long enough to realise its weakness, the indifference of the States composing it, and to recognise the necessity for a far more intimate and comprehensive union. The Federal Council, constituted under similar pressure, teaches exactly the same lesson. An invaluable agency in the absence of any closer bond, it fails to command the hearty adherence of the colonies, or to stimulate their Parliaments or peoples to activity. It generates no electricity, and remains, if not obscure, at least obscured, by the optional uncertainties of its character and the indeterminacy of its policy.

The Imperative Necessity of Federation.

Yet the need for a living Federal organisation grows annually greater instead of less. Within what should be one magnificent Australasian domain hostile tariffs and conflicting statutes multiply loss and confusion on every hand, heavier and heavier grow the burdens of interest upon the debts of the separate colonies, while beyond their boundaries the spectacle is even more disheartening. Communities equipped with the fullest powers of self-government remain absolutely powerless in all foreign affairs, including those with whose solution their destiny is indissolubly bound up. Our trade and commercial interests, paramount in many islands, and stretching across long distances of ocean on either side of us, pass beyond our jurisdiction when more than three miles from the shore. For each and all of us, Union spells harmony and prosperity at home, safety and strength abroad.

True, the control of the forces which Federation will place at the command of Australia requires breadth of view and a lofty sense of responsibility. To whom much is given of them much will be required. Those who question our qualifications for this high task, naturally prefer to trust to the slow accretion of the Federal Council rather than commit themselves boldly to the immeasurable and inexhaustible currents sent up from a new centre of national life. But their view ignores the contingencies of the empire—by which at any moment, and without a choice, we may be placed in imminent peril. It ignores our local complications—at any instant jealousies may arise effectually barring the path of progress for many a day to come. Their view ignores the democracy—a people is not to be put together piecemeal or welded together by mere diplomacy. It ignores the greatest social forces: sentiment fired to enthusiasm; patriotism fused into passionate aspiration for nationhood; imagination quickening, and worshipping a high ideal. These are the tidal forces of Federalism, the giant energies that go to the shaping of the coming Commonwealth—and not for long will they permit themselves to be ignored.
