

# **The West Australian Discontent**

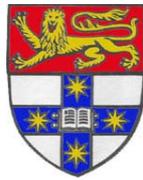
**Is Secession Possible?**

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**The West Australian Discontent**

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# **The West Australian Discontent: Is Secession Possible?**

## **[Introduction]**

Like the rumblings of a distant storm-centre there have been heard, several times since the establishment of the Australian Commonwealth, suggestions made, speeches delivered, and resolutions passed in some of the States in favour of secession and separation. In New South Wales, Queensland, and Western Australia members of the State Parliaments and local agitators have complained of certain actions, or neglect of the Federal Parliament, which they considered inconsistent with State rights and State interest, justifying, in their opinion, resort not merely to protest and remonstrance (well within their province), but to threats of withdrawal from the union. In New South Wales there has been much discontent and grumbling about the delay in the settlement of the Federal Capital, and the continuance of the seat of government in Melbourne. In Queensland a great stir has been made on account of the loss of revenue and the abolition of Kanaka labour in sugar plantations.

## **The West Australian Grievance.**

In Western Australia the principal grievance has been the delay of Parliament in sanctioning the survey of the proposed transcontinental railway from Port Augusta to Kalgoorlie. The recent failure of the Senate, by one vote, to pass the Survey Bill, sent up to it by the House of Representatives, appears to have aroused a storm of indignation in the western State. Clamour and demonstration against the Commonwealth has culminated in a resolution being passed by the Legislative Assembly on September 26, affirming that "The union of Western Australia with the other States has proved detrimental to the best interests of the State, and that the time has arrived for placing before the people the question of withdrawal from the union."

## **Secession Resolution a Nullity.**

The all-important point to consider is the possible effect of such a resolution, and whether the State Parliament can take action to give effect to it? The clear and unanswerable reply is, that such menaces and fulminations are absolutely useless, and that any movement of the kind is doomed to be abortive, and to cover with ridicule those responsible for such impotent resolutions.

Personally, I favour, and voted for, the Survey Bill, and the great preponderance of members of the House of Representatives supported it. It is not true, therefore, to allege "that unfair treatment has been meted out to Western Australia by the representatives of the majority of the signatories of the Federal compact." The National House of the Commonwealth, voicing the views of the majority of members in the majority of States, has twice passed the Bill, and twice in two successive sessions sent it to the Senate, where it has been twice defeated, or, rather, suspended, by a majority of one. The Chamber which is supposed to represent State rights and interests, and in which Western Australia is represented by as many Senators as Victoria, is responsible for the miscarriage of the Bill; the House in which the whole people of the Commonwealth are proportionally represented, has endeavoured to give effect to the wishes of Western Australia. It seems, therefore, most unfair to blame either the Federal Union or the Federal Government, or the majority of the people's House, for what has happened. It is, in fact, outrageous to indulge in such unwarrantable declarations.

## **An Indestructible Union.**

Perhaps it would be just as well to shortly explain that Western Australia, like other States, has freely and voluntarily joined the Commonwealth in the full knowledge that it is not a mere compact or partnership, dissolvable at will, like the old Australian Federal Council, but that it is an indissoluble Federal Commonwealth. In the memorable words of one of the judges of the Supreme Court of the United States of America, referring to the nature and character of the American Constitution: "It is an indestructible union, composed of indestructible States."—Chase, C. J., in *Texas v. White*, 7 Wall., 700. The indissolubility of the Australian bond is clearly and expressly affirmed in the preamble to the Constitution. The words are: "Whereas the people . . . have agreed to unite in one indissoluble Federal Constitution under the Crown, . . . and under the Constitution hereby established." The Constitution was drawn up in Australia, but it was enacted by the Imperial Parliament of Great Britain. No power in Australia can repeal or alter the clauses of the Imperial Act, under which, on September 17, 1900, the late Queen's proclamation was issued, declaring that on and after the first day of January, 1901, the people of New South Wales, Victoria, South Australia, Queensland, Tasmania, and Western Australia should be united into a Federal Constitution, under the name of the Commonwealth of Australia. No amendment of the Constitution, releasing any State from its membership of the Commonwealth, can be made either by the Federal Parliament, or by any State Legislature. New States may be admitted into the family circle of the Commonwealth by the Federal Parliament, but it cannot, if it desired, expel or release any State from the Union. The British Parliament alone could do so, and it is not likely that under any conceivable circumstances would that Parliament, which has called the Commonwealth into existence, be a party to its destruction. It may be interesting to show how the doctrine of secession from a Federal Union originated in the United States of America, and how that doctrine was for ever exploded, amid the ruin and bloodshed of a civil war, which thrilled the world.

## **American Precedents.**

The omission from the Constitution of the United States of an express declaration of the permanence and indestructibility of the Union, led to the promulgation of the disastrous doctrines of nullification and secession, which were not finally abandoned until the Civil War of 1862-4 forever terminated the controversy. The Kentucky and Virginia Resolutions, drafted by Jefferson (1798), and adopted by the Legislatures of those States, in protest against the Alien and Sedition Laws passed by the Federal Congress, contained the germ of the fatal and insidious contention that the Union was merely a compact among the States; that the States, severally, had the right to resist any breach of the compact, and to pronounce that a Legislative Act of the Federal Congress in excess of its powers, and encroaching on the rights of the States, was a nullity to be followed, if necessary, by resistance, revolution, and bloodshed.

In October, 1832, a State Convention was held in South Carolina, at which it was declared and ordained by the people of the State that the several Acts of Congress purporting to impose duties on the importation of foreign commodities were unauthorised by the constitution of the United States, and were therefore utterly null and void.

This was the first serious experiment in nullification by any State. The State Legislature of South Carolina followed up the ordinances of the State Convention by passing several Acts intended to give effect to the declaration of nullification, by authorising the citizens of the State to refuse to obey the Federal Law, which had been declared null and void. The President of the Republic, General Jackson, issued a proclamation to the people of South Carolina, requiring them to obey the Federal Law, and he followed up his proclamation by calling out the Federal troops. Hayne, the Governor of the State, responded by mustering and drilling 20,000 volunteers. Jackson is said to have sent a private message to Calhoun threatening that he would hang him higher than Haman, if nullification were not abandoned. An armed conflict between the State and the Union was only averted by a compromise, according to which Congress passed a new tariff law redressing some of the grievances complained of; and the controversy for the time was terminated.

## **The Logic of War.**

Calhoun's policy had been successful, and the result encouraged his successors when they put to the test their claim to the right of secession from the Union. The contest was resumed in a more dangerous shape on December 20, 1860, when a convention of the people of South Carolina was held, at which an ordinance of secession was adopted.

This ordinance of secession was followed up by a declaration of independence; which alleged that the Union was dissolved, and that South Carolina had resumed her position amongst the nations of the world as a free, sovereign and independent State. The example of South Carolina was afterwards followed by the States of Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas. A congress of seceding States was held at Montgomery, Alabama, at which a provisional constitution was adopted, and a provisional Government was formed. The Confederate constitution was in many respects similar to that of the United States. In April, 1861, the provisional Government was called upon to give orders relating to Fort Sumter, a fortification still held by the United States, but situated within the territory of one of the Confederate States; the militia of South Carolina were directed to attack the fort, and the Civil War began. Four other States, Virginia, North Carolina, Tennessee and Arkansas, then seceded from the Union.

The war was declared ended in August, 1866. Although the Federal constitution was not amended by the insertion of a new clause explicitly stating that the Union was a permanent form of Government, several State constitutions, including those of seven of the rebellious States, were amended by the introduction of provisions expressly repudiating the right of secession. It was at a fearful cost that the principle was thus, once and for all, placed beyond the region of doubt that the United States form a perpetual union of indestructible States.

## **Canada.**

The constitution of Canada does not contain any clause declaring the perpetuity or indissolubility of the Dominion. The constitution is embodied in an Imperial Act, and, save with respect to certain matters of detail not affecting the fundamental features of the scheme, it can only be altered by the Imperial Parliament. No general power to amend the constitution has been granted to the Parliament and people of Canada. Consequently, the Dominion is absolutely indissoluble so far as the Parliament and people of Canada are concerned.

## **The Commonwealth.**

These considerations explain the circumstances that the Canadian constitution contains no reference to the durability, or otherwise, of the Dominion. They do not account for the fact that, whilst the indissolubility of the Commonwealth is not affirmed by any clause in the Imperial Act, it is recited as an accepted principle in the preamble. Why was it placed in the preamble? The only reason which can be suggested is that the Australian Parliament and people have a general power to amend the constitution, and it may have been considered wise and prudent that, coupled with a right so great and important, there should be a reminder, placed in the fore-front of the deed of political partnership between the federating colonies, that the union, sealed by Imperial Parliamentary sanction, was intended by the contracting parties to be a lasting one, and that no alteration should be suggested or attempted inconsistent with the continuity of the Commonwealth as an integral part of the British Empire.

## **Maintenance of Commonwealth Unity.**

I cannot see how any State could withdraw from the Commonwealth without the authority of the Imperial Parliament. By the constitution the Customs and Excise Departments, the Post and Telegraph Departments, with all their vast sources of revenue, are vested in the Commonwealth, and they are manned and administered by Commonwealth officers, the surplus revenue being paid over to the States every month. The Defence Forces also are vested in the Commonwealth. If the Government of Western Australia, or of any recalcitrant State, attempted to take possession of the Customs House, or the Post Office, the Federal militia would be called out to defend Commonwealth property. That would soon put an end to the disturbance. There is a method of obtaining redress of State grievances without resorting to force.

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