

Federation

Baker, Richard Chaffey, Sir (1841-1911)

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Federation.

— BY THE — HON. SIR R. C. BAKER, K.C.M.G., *President of the Legislative Council, South Australia.*

What Is It?

A Federation is a political union of several States, by which effect is given to a certain state or stage of political thought and feeling. If the people of the several States desire to become one nation and one people so far as foreign countries are concerned, and so far as certain specified subject matters which cannot be efficiently dealt with by the several States acting separately, but wish to preserve their autonomy and power of self-government in all other matters, they form a Federation. The difference between union and unity is fundamental. Two forms of union lie on either side of Federation—“unification” and “confederation”—between which it is the happy mean, and to properly understand what is meant by Federation, it is essential to clearly understand the difference between these three forms of government. There are three fundamental elements which are essential to a true Federation. The first is—that between the Central or Federal Government and the different States' Governments there must be a division of powers, certain powers being delegated to the Federal Central Government, and certain other powers to the provincial Governments. The second is—There must be a dual citizenship. In a Federation the people are citizens of two different nationalities, if I may so express myself. They are citizens of the States and also of the Federation. Both the States and the Federal Governments act directly on them. In the particular form of union, which in contradistinction to Federation is called Confederation, the Government of the central body acts upon the States as States, and not upon the individual citizens of the States as citizens of the Central Government.

This fundamental distinction between Federation and Confederation is of the utmost importance, and should always be borne in mind. A Federal Government acts upon its citizen as such, and in a Federation the various States Governments act in the same manner on their citizens. Each citizen owes a double allegiance—an allegiance in reference to all matters in which power is given to the Central Government to that Government, and an allegiance in respect to all matters in which power is given to the States' Government to that Government. It follows from this dual citizenship that the citizens in such a form of government have dual powers—the power of electing representatives as citizens of the Federation to the Federal Government, and also, as citizens of the States, the power of electing representatives to the States Governments. Dual rights—the respective right of expressing and giving effect through those representatives to their desires and wishes on all political and executive questions which have been placed under the respective control of the Federal and States' Governments; and dual duties—the duty of

obeying the laws of the two forms of Government under which they live. The third fundamental element, which I venture to define as of the very essence of Federation, is this: The Federal Government is not formal or elected as it would be if the Federated States were one concrete nation. As citizens of the Federation, the people of the Federated States acting as one nation, elect one branch of the Legislature (the House of Representatives) on a numerical basis, in the same manner as the Houses of Parliament in these colonies are now elected. This branch is the numerical or concrete Nationality House, but they elect the other (the Senate) either directly or indirectly (through their States Legislature or by Electoral Colleges, &c.) as citizens of the States, each State, no matter what its population is, electing an equal number of Senators. This branch is the States' House. The one House represents the whole people grouped in constituencies, approximately numerically equal, and represents the National element. The other House represents the whole people grouped in States, and represents the States element. Take away or weaken the National element—the House of Representatives—and you have a union which tends towards and would ultimately end in Confederation. Take away or weaken the States element—the Senate—and you have a union which tends towards and would ultimately end in Unification. It is by combining these two elements, and by giving due power and authority to each, that you obtain the desideratum—Federation.

By this means effect is given to the voice of the people of the whole Federal Commonwealth regarded as an undivided people, and the separate individuality of the several component States receive effective recognition. The Federal Government can pass no law which does not receive the sanction of the majority of the people, and of the majority of the States. As the number of members elected to the House of Representatives by each State is in proportion to its population, either Victoria or New South Wales could in that House outvote all the smaller colonies, and it is therefore essential to us that the States Council (the Senate) should be given at least equal powers with the numerical House. In America many powers are given to the Senate which are not conferred upon the other House. It is the stronger House, and the States have preserved their power of local self-government intact. If the smaller colonies do not wish to become provinces of Victoria and New South Wales, the Senate must be made strong and powerful. Benjamin Franklin, in speaking of the American Constitution, wrote:—

“Too much provision cannot be made against a consolidation. The State Governments represent the wishes, the feelings, and local interests of the people. They are the safeguards and ornament of the Constitution. They will protract the period of our liberties; they will afford shelter against the abuse of power, and will be the natural avengers of our violated rights. This article” (that is the article

providing for a strong Senate in which each State was equally represented) “secures the excellence of the Constitution, and affords just ground to believe that it will be in practice what it is in theory, a Federal Republic.”

A Senate with at least co-equal power to the House of Representatives is the quintessence of the Federal form of Government; it holds the balance between the National and the States Governments, and is the characteristic Federal pivot on which the whole system revolves.

Its Advantages.

As most public speakers have in the main dwelt upon the patriotic and sentimental advantages of Federation, it is intended (whilst not only admitting, but even insisting upon the great importance of this aspects of the question) to enumerate only the material and practical advantages which will accrue to these colonies if a true Federation is formed.

1. History and experience have shown that neighbouring States in course of time either drift into open enmity with each other— actual war, alternating with armed preparation for war—or form Federations. Intermediate forms of union, treaties, leagues, alliances, confederations have all proved failures. Federation has been shown to be not only a means, but the only political means, by which lasting Unions can be formed. It is true that even Federation does not always prevent dissension or even actual war between the constituent States, but all human institutions are imperfect, and in the only case in which actual war has happened in a Federation—the war between North and South in America—the question of slavery, which led to the war, festered for eighty years before it broke out, and was one of those questions which might well—as in fact it nearly did—prevent the existence of a Federal Republic. Mr. Freeman wrote in 1862, when this war was at its height:—“If the system has broken down at last we may be sure that any other system would have broken down sooner.” But although Mr. Freeman was no doubt justified by the outlook at the time he wrote, the system did not break down; the Federation of North America is as firmly knit together as ever, and no more conclusive and triumphant vindication of the system could be given than the fact that it remains unimpaired and stronger than ever after so severe a shock as that great war. The more populous these colonies become the more questions leading to friction and disputes between them will arise. Republics are notoriously quarrelsome, and all history and experience have shown that no ties, not even those of a common origin, speech and religion will in the end prevail against self-interest. The most bloody and vindictive wars have been waged between kinsmen.

Does any one suppose that had the States of North America not federated they would have lived (except in one single case before referred to) at peace for over one hundred years with each other? If he does, let him look at South America, where, during the same period neighboring republics, in which the dominant races are of the same nationality, blood, speech, and religion, have been chronically at war with each other. Let him look at Switzerland, where, notwithstanding that for hundreds of years the cantons have been joined together by leagues, alliances, and

confederations, they were more often at war with each other than with foreign nations—until 1848, when for the first time they “federated.”—No doubt this advantage is prospective, and the shallow and untenable argument has been used that it is time enough to meet these dangers when the necessity arises. It might just as well be argued that you should not insure your house until after it had caught fire. When dissensions have arisen, and animosities have been aroused, the formation of a Federation will be impossible. In shaping the destinies of a nation, we must consider the future as well as the present, and give due consideration to the instincts and probable actions of men in the future as illustrated by the past.

This is not all. Apart from the horrors of war, there is the question of expense.

Contrast the Continent of Europe with that of North America. On the one hand we find each nation armed to the teeth, some eight or ten millions of men trained to cut one another's throats, costing the tax-payers some one or two hundred millions per annum; on the other we find a handful of soldiers acting almost entirely as a Federal police, and military and naval expenditure reduced to a minimum.

When Australian Federation is accomplished, there will be for the first time in the history of the world, a continent for a nation and a nation for a continent, freed from any prospect of internecine war, and consequently released from any necessity for enormous expenditure for defence purposes against neighboring states.

2. We have already begun to develop germs of a foreign policy, and have interfered, or attempted to do so, with the French in reference to New Caledonia, with the Germans in reference to New Guinea, and with the Chinese and Japanese in reference to colored immigration. No doubt, as we become more populous and important, we will also become more self-assertive and prepared to vindicate our rights and interests; gradually but surely the Islands of the Pacific will come under the domination of some of the great powers of the world, and indications are not wanting that that power will be Australia. Norfolk Island has lately been handed over to New South Wales, and Queensland has practically annexed part of New Guinea. We must be in a position to defend ourselves against foreign invasion, and to insure that our rights and interests outside of our own continent shall be respected. The advantages both as to economy and efficiency of a Federal force (both military and naval) as against six independent State forces are so apparent and obvious as to need no supporting argument.

3. The public debts of these colonies amount to something like £180,000,000. If the greater portion of this debt is taken over by the Federal Government, and paid off as the bonds fall due by the proceeds of Federal loans, I see no reason why something like £1,000,000 per annum should not be ultimately saved in interest. The credit of Federated Australia should be as good as the credit of any other

country in the world. British 23/4 Consols are quoted at £112. The Australian Colonies, on an average, have borrowed at £3 18s. 9d. per cent., and after giving due allowance to the present glut of money, there appears to be a margin which would amount to probably £1,000,000 per annum, if all the States' debts were taken over. In fairness, an adjustment would have to be made, but this will not materially affect the annual saving of interest. When Canada federated it was agreed that the debts of the provinces up to a specific amount per head of the respective populations should be taken over by the Federation and it would probably be a fair adjustment for the Federation to first take over from each colony a sufficient amount of their respective debts to pay for the post office, telegraphs, and other public works taken over by the Federal Government, and then a further amount based on equitable lines to be arrived at after investigation. No doubt a considerable portion of this saving is prospective, but it is a saving which would increase year by year.

4. The benefits and advantages which will accrue from Intercolonial Free Trade are so generally recognised and admitted, that it is not necessary to dwell on this head. The total revenue raised by the six colonies from Customs and excise amounted, in 1895–6 to £7,151,855. The total duties levied by the colonies on the productions of the other colonies was estimated by the New South Wales officials for 1891 as £529,410, and for 1894 as £733,000. Intercolonial Free Trade will, however, undoubtedly diminish the £7,151,855, but not to any great degree, and as against this loss there would be the large saving on the cost of collection consequent on the abolition of Border duties.

There are some people who suggest that we can have Intercolonial Freetrade without Federation; they must be very sanguine and unpractical. Ever since 1873, when the Imperial Parliament first authorised the colonies to levy intercolonial preferential customs duties, attempts have been made by the various colonies to enter into customs treaties with each other, &c., &c., all of which have ended in entire and dismal failure, although they were confined to a few articles of colonial production.

5. There is considerable difference of opinion as to the necessity for the various Acts passed in the different colonies restricting or prohibiting coloured races from entering or settling in Australia, but all will unite in agreeing that any such large influx of alien races, as would change the characteristics of the Australian people and create a nation of half-castes, ought to be prevented. This matter, which may cause disputes and perhaps war with foreign countries, can be effectually dealt with only by Federated Australia.

6. The jurisdiction of each colony only extends for three miles beyond high-watermark. Federated Australia should have jurisdiction and control of fisheries and

other matters outside that line. Pearl-fishing in Northern Australia is an important industry, and we have already come into conflict with the subjects of foreign powers on this question.

7. At present an alien naturalised in any one colony becomes a British subject in that colony only, and continues an alien in all the other colonies. If naturalised by a Federal Government, he would become a British subject for all Australia. These colonies cannot legislate for each other; the only authority which can legislate for all the colonies is the British Parliament. We have been granted powers of local self-government; let us exercise these powers to the fullest extent by constituting an Australian authority which, so far, as regards this and other matters of a similar nature, can deal with Australia as a whole.

8. Greater economy and efficiency would be insured in the management of the postal and telegraph departments, no doubt ultimately resulting in a penny postage and a sixpenny telegram.

9. The Northern Territory is a white elephant to South Australia, costing £60,000 per annum, over and above receipts. There seems no prospect of getting rid of this enormous annual drain unless by Federation. The principle has been established by legislation, that in the interests of Australia as a whole, no colored labor shall be employed in the Northern Territory. Without suitable labor to develop its resources, this Territory must continue unpopulated and unremunerative, but it is only fair that United Australia should make good the loss incurred in the interests of all Australia.

10. An economical and efficient system of quarantine would be established. This cannot be done at present, because there is no authority (except the British Parliament), who has any power to deal with the matter as a whole. We have at present six expensive and inefficient systems, which do not fit in or work with each other.

11. The remarks in paragraph 10 apply also to lighthouses, except that the coasts of Australia are, as a rule, well lit and the systems efficient; but when any colony, from any cause whatever, is unwilling or unable to erect a lighthouse on any given spot on its own territory, that spot must remain unlit, although a lighthouse there may be of the utmost importance to the rest of Australia. A lighthouse has only just been erected on perhaps the most important spot in Australia—the Leuwin.

12. An author, inventor, or tradesman would only require to take out one copyright, patent, or trade-mark, as the case might be, for the whole of Australia. At present he has to take out six. Each patent costs about six or seven guineas.

13. The influx of foreign criminals could be more effectually prevented.

14. Judgments obtained in any one colony would be effective all over Australia. They are so at present in theory, but the Acts of the various colonies which purport

to render them so, are so imbued with the spirit that it is necessary to protect their own citizens against the citizens of other colonies as to render the theory little more than a theory.

15. The laws relating to the important questions of Banking and Insolvency would be efficiently dealt with, and the laws relating to marriage and divorce would be made uniform.

16. The navigation of and irrigation from rivers and the riparian rights of States and individuals would be legislated for. The question concerning the water of the River Murray, which arose between South Australia and New South Wales some time ago, has never been settled, and is bound to arise again in a more aggravated form as more and more water is used for irrigation on the head waters of the Murray and its tributaries. In the absence of Federation, there is no authority to settle this or any similar question, and both it and the ever-recurring dispute between South Australia and Victoria are examples of questions which give rise to friction and dispute, and sometimes ultimately end in animosity, and even war.

17. A strong Central Government would ensure domestic tranquility, and outrages, which have in some cases amounted to almost civil war, would be put down by a strong hand. In the past, local Ministries have sometimes been afraid to perform the first and paramount duty of every Government—"the preservation of law and order."

Its Disadvantages.

There is no human scheme to which objections cannot be raised, and to which there are not some disadvantages. The disadvantages of Federation are few, and most of them are of little importance.

1. The question of cost has been put forward as one of the greatest of its disadvantages, but I do not see why the economy of one administration as against six administrations in the management of the Customs, Post Office, Telegraph, and other Public Services, which will be taken over by the Federal Government, and the saving in interest on the public debt, should not pay, and more than pay, for the cost of the Federal Government, and if the ultimate saving in military and naval matters is considered, Federation, instead of being an expense, would ultimately be the means of an enormous reduction in taxation. As a separate article will be written on the cost of Federation, it is not necessary to now give figures and details.

2. The Local Parliaments will be shorn of some of their prestige, and the power to legislate concerning certain subject matters will be taken from them. This loss of prestige does not appear to be of great importance to the people. And if (as has been shown) the Federal Parliament can more efficiently legislate concerning these subjects, and if (as is without doubt) they can be more efficiently and economically managed by the Federal government so far as efficiency and economy are concerned, this will be of advantage, not of disadvantage, to the people of all the States.

3. It has been alleged that the establishment of a Federal Government will be an injury to the present capitals, such as Adelaide, Melbourne, &c. This may happen to a slight degree, but it has not happened in Canada, America, or Switzerland. If the true principles of Federation are embodied in the Australian Federal scheme, the Federal capital cannot be the capital of one of the constituent States, but must be under the exclusive jurisdiction of the Federal Government. It is not contended that this is an absolute essential of Federation, but it is not probable that these colonies will enter into a Federation in which the Central Government will have to rely on one of the States Governments for its safety and for the enforcement of its laws in its own seat of government, and in which the capital of one State will secure predominance over the capitals of all the other States.

4. The Customs tariff for South Australia, instead of being made by the people of South Australia for themselves, will be made by a Parliament in which they are represented, out over which they have no controlling power. This can be looked at from three points of view—Revenue, Free Trade, Protection.

So far as revenue is concerned—as the revenue will no longer be part of the revenue of this colony—this does not seem to be of much importance from a local point of view.

As all the colonies except New South Wales are still wedded to protection, the strong probability is that the Federal tariff for some time to come, at all events, will be of a protective nature. Those who are Protectionists should rejoice at this, and those who are Freetraders should rejoice that the area over which freetrade reigns triumphant will become enlarged by Intercolonial freetrade.

The only class who have some cause for alarm are the local manufacturers, who may dread the competition of the large cities— Melbourne and Sydney. Some years ago a South Australian Commission was appointed to collect their evidence, and in nearly all cases they stated that they were quite prepared to face such competition, and confident that they could hold their own.

5. Control over all the subject matters which are entrusted to the Federal Government will be taken from the Local Parliaments. If (as undoubtedly will be the case) these subject matters can be more effectually and economically dealt with by the Federal Government, this is not a disadvantage, even from the democratic point of view, unless so far as it conflicts with the democratic axiom—“Government for the people, by the people, in sight of the people.”

There is no doubt that in the minds of a large number of the people this loss of power by the local Parliaments, solely elected and constituted by themselves, (grouped in their own particular State—) this feeling that local self-government is to a certain extent being given up—is a disadvantage, and has prevented Federation from being an existing fact years ago. All those who are of opinion that everything that is wrong, and who, with a confidence born of their own good intentions, and sustained by scorn of the lessons of history and experience, imagine they can by legislation set everything right, and who believe that what they call reforms will be retarded by a central organisation : all those who, either by force of numbers, or by acting in a body on either side, as their interests appear to demand, have become the dominant political power in some or all of the colonies, and who naturally say to themselves: “We can control our own legislation, but can we control legislation in the new authority which is to be erected;” ministers of the Crown and others holding high political positions, who fear the loss of power and prestige, may all reasonably be expected to be either lukewarm in favor of Federation, or not to desire its immediate consummation. None say openly and publicly that they are antagonistic, but many privately express a vague dislike to the system. They cannot, or will not, formulate their reasons, but seek to kill the movement by delay, or by the imposition of impossible conditions which they know will not be agreed to.

But let anyone holding any of these views or opinions examine for himself the powers proposed to be entrusted to the Federal Government, and he will see that very few of such powers are of any importance, from either a Democratic, Socialistic, or Radical point of view. From any one of these aspects it cannot matter whether a Federal or a Local Government controls lighthouses, quarantine, influx of criminals, collection of census, and statistics, &c., &c., and investigation will prove that the only matters of any social importance which the Local Parliaments will be prohibited dealing with will be : —(a) Customs tariff and excise; (b) Naval and military affairs ; (c) Alien and colored races.

From the considerations already advanced concerning these subject matters it will be seen that it is probable that, so far as *a* and *c* are concerned, the Federal Parliament will be in accord with the views of the Protectionists and the Labor Societies, and that so far as *b* is concerned there is not room for difference of opinion.

6. It has been hinted that with two Governments, with concurrent and unlimited powers of taxation—in some instances including the same methods of raising revenue—difficulties would arise as to the framing of local budgets and schemes of taxation. This is an imaginary objection. No such difficulties have arisen in other Federations, and no such difficulties would ever arise except in the case of war expenditure against a foreign enemy, and then much greater difficulties would arise if there were no Federation. The Customs, Post and Telegraph Offices, &c., revenue for the six colonies would not be subject to such great variation as similar revenue for any one of the constituent States, and local treasurers would have less difficulty in estimating the amount of Federal revenue and expenditure than they would have in estimating their own.

In conclusion, it will be seen how few and unimportant are the practical disadvantages of Federation from whatever political aspect it is considered.

The Disadvantage Of Any Other Form Of Union.

A Confederation is that form of union in which the Central Government acts directly on or through the States of which the union is composed, and only indirectly on the citizens of such States. It may legislate for, but cannot directly act upon the individual. In it there is only one citizenship and one allegiance—the citizen is a citizen of the State, not of the Confederation. He has no voice (except indirectly as an elector of his own State) in the formation of the Union Government; that Government may or may not have an executive to enforce and a judiciary to interpret its laws ; but even if they exist, they are both powerless, because the Government of which they form part relies (and often relies in vain) on the various States' Governments for its revenue, and for the enforcement of all its commands. As was written of the American Confederation of 1781 (the proved inadequacy and effeteness of which led up to the American Federation) : —” It may make and conclude treaties, but it can only recommend the observance of them. It may appoint ambassadors, but cannot even defray the expenses of their tables. It may borrow in its own name, on the faith of the Union, but cannot repay a single dollar. It may coin money, but cannot import an ounce of bullion. It may make war, and declare what numbers of troops are necessary, but it cannot raise a single soldier. It can declare everything but can do nothing.”

Under any form of union there must be points of contact, and consequently of possible friction, between the Union and the States' Governments. Time and evolution will inevitably raise questions in which the interests of the people of some one or more of the component States will be, or will appear to be, divergent from those of the remaining States. Any form of union to be lasting must reduce these points of contact, and the possibility of any such questions arising to a minimum. Federation does this—Confederation does exactly the contrary. This and its powerlessness to enforce its commands, are its two radical defects. The one is vicious and injurious; the other (unless for temporary and under exceptional circumstances which, as in the American struggle for independence, coerced the States into obedience), deprives it of the right to even the name of “Government.” Many Confederations have existed, and have constituted an effective means of defence against a foreign foe, but as a beneficial form of union they have been temporary, and, the external pressure removed, they have become the mothers of war and strife between the component States, ending generally in total disrupture. In some cases (as in the case of Switzerland up to 1847), the outside pressure being again brought to bear, there has been a forced temporary re-integration, but never a

permanent, baneficial, and lasting union.

Hamilton says in the FEDERALIST:—"A sovereignty over sovereigns, a Government over Governments, a Legislature for communities as distinguished from individuals; as it is a solecism in theory, so in practice it is subversive of the order and ends of political polity, by substituting violence in the place of law, or the destructive coercion of the sword in the place of the mild and salutary coercion of the magistracy." The necessity for laying bare the cancers of Confederation arises from the fact that Australia is already to a certain extent "confederated." We have in our midst the (miscalled) Federal Council, which is to a certain extent a "confederated" form of Government (harmless only because of its powerlessness), which, after many years of existence, has been fruitful only of picnics for Premiers, the piece de résistance of which, in the form of legislation, has been mainly confined to bêche-de-mer. If, however, power had been given to that body to extend its legislation beyond the confines of bêche-de-mer, and it had passed any law which appeared, perhaps even without due cause, to the people of any State to be unfair to them, and to unduly favor the interests of some other State or States, would that law have been obeyed in the aggrieved State? Certainly not. The people, the local parliament, and the press would have united in decrying such a law, and the State authorities (the only authorities with any power to act), reflecting public opinion, would have allowed it to remain a dead letter. Bitter feelings and jealousies would have been engendered, the "Federal spirit" would have ceased to exist, and the recalcitrant State would either have been coerced by her sister States (which means civil war), or the "Federal Council laws" become a laughing stock.

It may be argued that the same results would arise under Federation, but this is not so. Each citizen is a citizen of the Union Government; he has the same rights concerning, and takes the same part as any other citizen in, the election of members of both Houses of the Federal Government. Feeling that it is to a certain extent *his* Government that has passed the law for *his* nation, renders him not only unwilling to carp or criticize, but even blind to defects which may really exist. What rage, what outcries of tyranny, what revolutions, would have been caused had outside powers enforced on the people of these respective colonies many of the laws which (because they are made by themselves) they live under not only with satisfaction, but even with pride? But above and beyond this, the Federal Government, by (through its own executive) enforcing its commands over its own citizens, ensures for itself not only obedience, but also respect; the temporary irritation (which perhaps was never justified), passes away, and the union not only continues, but is perhaps even strengthened. These considerations are offered to those who think that a beneficial and lasting union between the Australian colonies can be brought about

by enlarging the number of the members of, and extending the powers of the (miscalled) Federal Council. The old proverb about a silk purse is illustrative of the impossibility of doing this. It is a pity that the words “Federation” and “Confederation” have been so often used incorrectly. This is probably due to the fact that when the Southern American States separated from the North— although they paid the highest tribute that has ever been paid to any union form of Government by adopting almost verbatim the Federal Constitution of the hated and despised North— were obliged to adopt some distinctive name, and Confederation was the nearest in sound to Federation they could get. The so-called Confederate United States were a true Federation, and the so-called Federal Council of Australia is a hybrid closely allied to Confederation. All the considerations advanced in opposition to a Confederation apply with equal force to still looser forms of union, such as leagues, treaties, and alliances. There are many intermediary stages between a Federation and a Confederation, partaking partly of the one, and partly of the other, but the nearer we approximate to an undiluted Federation, the more beneficial and enduring our union will be.

Its Financial Aspect.

It is generally admitted that the Commonwealth Bill of the Sydney Convention, 1891, must be the basis for Australian Federation. Notwithstanding that hostile critics have for six years endeavored to find fault with that Bill, and notwithstanding that it has run the gauntlet of nearly every Australian Parliament, no one has ventured to propound a new scheme. But I think that it is also generally admitted that the financial proposals it contains are incorrect in theory, and would have been disastrous in practice.

Sir Samuel Grilliths, who was not only the draftsman of the Bill, but was also the leading spirit in the Sydney Convention, has since written:—"The inequalities and unfairness which would result from schemes already put forward are, I think, so unjust as to require no comment. I am convinced that until the financial difficulty is fairly faced, Federation, however much it may be talked about, and whatever constitutions are framed, will not actually be accomplished."

The results which would have arisen had the Commonwealth Bill been in force in the year 1894 are shown by the following tables:—

FEDERAL REVENUE.

	Customs and Excise.	Post and Telegraphs.	Total Revenue.
New South Wales	£2,323,961	£626,864	£2,950,825
Victoria	2,118,115	665,504	2,783,619
Queensland	1,195,696	217,077	1,412,773
South Australia	500,288	212,087	747,586
Northern Territory	34,562	649	—
Tasmania	299,661	54,996	354,657
West Australia	513,508	80,756	594,264
	£6,985,791	£1,857,933	£8,843,724

FEDERAL EXPENDITURE.

	Customs and Excise.	Post and Telegraphs.	Defence.	Lights and Quarantine (Estimated).
New South Wales	£74,201	£702,632	£243,837	£20,000
Victoria	74,243	440,771	197,570	20,000
Queensland	2,834	298,467	63,067	30,000
South Australia	20,405	192,668	34,236	15,000
Northern Territory	4,094			
Tasmania	7,342	72,044	12,424	10,000
West Australia	12,115	77,459	8,879	5,000
	£235,234	£1,784,041	£560,013	£100,000
Total				£2,679,000
Cost of Federal Government				230,000
				£2,909,000

The surplus revenue of the Commonwealth would therefore have been £5,935,000, and if this had been distributed amongst the constituted states in the manner proposed by the Commonwealth Bill, the result would have been that South Australia would have contributed to the cost of the Federal Government £28,000, New South Wales £9,000, Victoria £259,000, Tasmania £29,000, whilst Queensland would have actually gained £56,000, and West Australia £19,000. Comment to show the unfairness of such a proposal is needless.

There is, however, another fundamental and vital error common to the Commonwealth and other schemes, involving the distribution of surplus revenue amongst the constituent States, which have been promulgated.

The Federal Government would be in possession of a far larger revenue than it actually required—a state of things certain to result in extravagance and ruinous expenditure; and the States' Governments would have to rely for a large portion of their respective revenues on the distribution of a probably annually decreasing fund over which they have no control.

The Convention of 1897 will have to re-cast the finance of Federation, but inasmuch as it is absolutely essential that the Federal Government should receive the customs and excise, and highly desirable that the post-offices and telegraphs should be managed as a whole, and that the revenue from these sources should also belong to the Federation, this annual surplus of £5,935,000 will have to be dealt with, and the question arises, What is to be done with it? The answer to the question was foreshadowed by a clause in the Commonwealth Bill itself, which gave power to the Federal Government, with the consent of the States, to take over and consolidate the public debt of any State or States. It is now generally admitted that the Federal Government shall (not may) take over so much of the debts of the constituent States as will, for payment of interest thereon, absorb the surplus revenue.

Our debts amount in round numbers to about £181,000,000, borrowed at an average of £3 18s. 9d. per cent., so that it would appear as if the surplus revenue of the Federation would be sufficient to pay the interest on about £150,000. The effect, however, of intercolonial freetrade on the Federal customs duties, and consequently on the surplus revenue of the Federation, must not be overlooked, and will be considered later on.

The following table shows the indebtedness of the colonies at per head of the respective populations (omitting shillings):—

Public Debts, 1896. Annual Charge, 1895–6. Average Annual Charge per cent. Debt per Head.			
	£	£	£ s. d.
New South Wales	62,263,473	2,360,799	3 15 10
			48 0 0

Victoria	47,636,211	1,981,625	4 3 3	40 0 0
Queensland	32,444,934	1,286,531	3 19 4	69 0 0
South Australia	24,216,425	948,762	3 18 4	67 0 0
West Australia	6,936,572	243,516	3 13 0	52 0 0
Tasmania	8,447,470	328,881	3 17 10	52 0 0
	£181,945,085	£7,119,781	£3 18 0	£51 0 0
				(Average.)

The Federation must, of course, become responsible for such an amount of the public debt of each of the colonies as will pay for the respective post offices, telegraph, forts, &c., which will be handed over to the Federal Government, and one of the matters which the Convention of 1897 will probably closely investigate is how much more of such respective debts the Federation ought to assume.

When Canada federated the Central Government, after becoming responsible for so much of the Provincial loans as were equivalent for the various public works taken over, became responsible for further amounts of such debts at a rate per head of the population of the respective provinces. The average debt per head of the Australian about £51, but probably it would work unfairly if the ready rule adopted in Canada was also adopted in Australia. This is a matter which requires investigation and consideration. No doubt the effect of intercolonial freetrade will diminish the surplus of £5,950,000, but not to such a great extent as might be supposed. Mr. Coghlan, the Government Statist of New South Wales, estimated the amount levied by colonies on the production of other colonies as £529,000 for 1891, and £733,000 for 1894.

Of course, if the Federal Government does not collect these intercolonial duties, the citizens of the Commonwealth will not pay them, and if other duties are imposed to make up the loss of Customs revenue, arising from intercolonial Free Trade, it will not be additional taxation, but only an alteration of the incidence of taxation.

After all, these considerations, and others of a like nature, are based on the amount produced by the tariffs of the various colonies as they are at present, and are, to a certain extent, speculative, because the actual results will arise from a tariff for Australia as a whole, which is yet to be settled by the representatives of the people of Australia as a whole.

It has been shown that the average rate of interest paid by these colonies on the bonds is £3 18s. 9d., and it must be admitted that when such bonds fall due from time to time the money could probably be borrowed by the respective colonies at lower rates of interest, but if bonds to the amount of, say, £150,000,000, are from time to time, as they fall due, repaid by the proceeds of loans borrowed by the Federation, there can be no doubt that an immense saving in interest will ultimately accrue. No matter what the state of the money market may be, the Federation will be

probably enabled to borrow at from 1/2 percent. to 1 percent. lower rate of interest than any of the colonies. I do not believe in the immediate conversion of the State bonds into Federal bonds; such a scheme is neither practicable nor economical; but by allowing the bonds, responsibility for which is taken over by the Federal Government, to mature, and by issuing Federal bonds to raise the funds to pay the matured State bonds, there will be an ultimate saving, amounting to, perhaps, £1,000,000 per annum. It has been suggested that if the Federal Government take over the State debts, it should also take over the works on which the bulk of the borrowed money has been expended—the railways. I confess I do not see why this should be. In 1891, as a member of the Sydney Convention, I supported this contention, but at that time I did not fully appreciate what a great and fundamental mistake it is to grant to any Government an enormous surplus revenue. This is what would occur if the whole of the railways were handed over to the Central Government. Let us not repeat the financial mistakes of the Commonwealth Bill.

No doubt the imposition of differential railway tariffs by one colony to divert the trade and commerce of another colony is contrary to the spirit of Federation, but I think that the provisions of the German Federation will meet this difficulty. Articles 41 to 47, in effect provide that “all new lines are to be constructed and equipped according to an uniform plan,” “uniform regulations are to be introduced,” “and differential tariffs, intending to unfairly divert trade and commerce from one State to another are to be abolished.” The Swiss Federation also, to a certain extent, controls without owning her railways. Very few of our railways can be said to be lines of Australian national importance, and if the elements of locality are utterly eliminated from the management of our local railways dissatisfaction would ensue.

The conclusion arrived at is: That in its initiation, and for some time to come, Federation will involve a very small addition to the cost of the Government of Australia; that in the near future the economies to arise from one administration, instead of six administrations in various large public departments, and (if the arrangement advocated as to one public debt is adopted) the saving of interest will not only reduce such cost to nil, but will result in an actualing to the taxpayers, and that by abrogating the necessity for the protection of the various colonies against each other an enormous relief from taxation will accrue later on.

Disputed Points.

Except as to finance and railways, which have already been discussed, there are few points on which the basis of any Australian Federation scheme (the Commonwealth Bill) has been seriously challenged; these are:—

- (a) The mode of election of the Senate.
- (b) The constitution of the House of Representatives.
- (c) The powers of the Senate.
- (d) The constitution of the Executive.

a and *b* include the question of the franchise of electors. (*a*) There are three possible methods by which our Senate can be elected: By the Legislation of the constituent States, as in America, and as is proposed by the Commonwealth Bill; by the various constituent States in such manner as they may respectively decide, as in Switzerland and in Germany; or directly by the people of the States. This last method is not in force anywhere. Either of these three (3) methods is consistent with a true Federation. The second is the most logical, because the members of the Senate represent the States as States, and it may be contended that to dictate to the States the method by which they shall appoint those who represent them is to unnecessarily interfere in their domestic concerns. The first is in the interests of the smaller States, such as South Australia, the most desirable because, above all things, it is essential to the smaller States that the Senate should be as powerful, if not more powerful, than the House of Representatives. The third is impracticable and objectionable.

It must always be borne in mind that the election of members to any legislature is only a means to an end, the end being to secure the election of the strongest and best men who can most fully and effectually represent the views of their constituents. There are some who are apt to exalt the means above the end, or who, in their anxiety to deify democracy, lose sight of the end altogether. The idea which has been so vehemently enunciated, that we ought not to Federate until all the colonies adopt the franchise in force for the South Australian House of Assembly, so far as election to the Federal Parliament is concerned, is somewhat arrogant, and if insisted upon, must be a bar to any Federation. If the idea were agreed to, the other colonies would be obliged to either adopt the South Australian franchise for their own domestic elections, or have two concurrent and different electoral systems. It is not probable that they will do either of these things, and the idea itself is contrary to

the spirit of Federation, which demands that as little interference as is possible shall take place in the domestic concerns of the constitutional States. If we desire to prevent a theoretical Federation from becoming a practical consolidation, we must never lose sight of the end desired—a strong and powerful guardian of the rights of the smaller States.

We must recollect that no matter what words are used in framing our Federal Constitution, the forces behind will warp and alter its practical working written, and therefore supposed inelastic, constitutions by time and evolution become different from the conceptions of their author. An American writer, Mr. Woodrow Wilson, says:—

“There has been a constant growth of legislative and administrative practice, and a steady accretion of precedent in the management of federal affairs, which have broadened the sphere and altered the functions of the Government without perceptibly affecting the vocabulary of our constitutional language. Ours is scarcely less than the British, a living and fecund system.”

If the Senators were elected by the Parliament, the State, as it ought to be, would be their constituent, and they would look for guidance and assistance to their immediate electors, whose opinions and arguments easily and quickly expressed in Parliament would help and sustain their representatives. Our own experience, when the whole of South Australia was one constituency for the Legislative Council, has shown the evils of large constituents scattered over immense areas. Such electorates do not and cannot know their representative, or hear his views, they are slow to move, and difficult to educate up to any idea, they become apathetic, and mere money decides elections.

It is a significant fact that in all the federations which are in existence the same method of election of members to the House of Representatives exists. In America, Canada, Switzerland, and Germany the people of the federated constituent States are all considered as one nation for the purpose of choosing electors for the House of Representatives, and in all cases the various States are represented in accordance with their numbers. In the Commonwealth Bill it is proposed that each 30,000 electors for the numerical House should be entitled to choose one representative, and it is also proposed that the franchise for the Lower House of each colony shall be the franchise for the election in that colony of members of the Federal House of Representatives. It is difficult to see how this proposed system can be logically or conveniently departed from. It is true that the smaller colonies will, so far as the House of Representatives is concerned, be swamped and submerged by the larger number of members which the two large colonies of Victoria and New South Wales will be entitled to, but if a strong and powerful Senate is insisted upon, it is

submitted that the rights of the smaller colonies will be safeguarded. No law can be passed without the concurrence of both Houses, and the small States must always look to the Senate as their House. Those who, while advocating Federation, seek to impose impossible conditions, are no friends to Federation, and the claim that all the other colonies should abandon their own franchise, and adopt the franchise of South Australia, is just as one-sided and impracticable as if Victoria were to insist on all the other colonies, South Australia included, adopting plural voting, as a condition precedent to federation.

As has been frequently before remarked, the Senate should be at least as powerful as the House of Representatives. In America the Senate has almost co-equal powers of legislation. Practically its consent is necessary to the appointment of all those we should call the Ministry. It alone has the power to make treaties and appoint ambassadors. In Germany the Bundesrath is a more powerful House than the Reichstag. It can initiate any Bill, and it has the final say in all legislation, no matter where initiated or where altered. Even if the Bill is introduced in the Bundesrath, and is passed in the Reichstag without any alteration, it has again to be brought before the Bundesrath for final ratification. The consent of the Chief Executive officer, the Emperor of Germany, is not necessary to the passing of any Bill. The Bundesrath, in addition to being a House of Legislature, occupies, so far as legislation is concerned, the position of the Crown in England. Some of those whom we should call the Ministry are committees of that House, and some other members perform important Ministerial functions in consequence of representing specified States; in all respects it is the more powerful House. The Swiss Council of the States is at least as powerful as the other House. We can obtain no assistance from the consideration of the Constitution of the Dominion of Canada, because there the Senate is nominated; as a matter of fact for this and some other reasons, Canada can hardly be said to be a true Federation. Mr. Goldwin Smith “wonders how the bare-faced proposal that the leader of the dominant party should have the uncontrolled appointment of the members of one branch of the Legislature could ever have been acceded to.” Ever since the Dominion came into existence there has been friction between the Central and Provincial Governments, and signs are not wanting that the Dominion of Canada will end either in consolidation or a disruption of the constituent States.

It is wonderful how little notice has been taken by anyone except by Sir Frederick Griffith and myself, of the relationship which ought to exist between the two Houses of Parliament, and the Executive in a federal form of Government. It is usually assumed that what is commonly called the “responsible Ministry system” will work in Federation. I confess that I was of the same opinion myself in 1890

when I wrote the Federation Manual, but in the second edition of that work, I acknowledged my error and admitted that Federation would either kill the “responsible Ministry system,” or the responsible Ministry system would kill Federation. As everyone knows, that system has arisen in consequence of the predominant power of one branch of the Legislature—the House of Commons—in the British constitution. It is unworkable with two Houses of co-equal powers.

A responsible Ministry is not a necessary corollary to free political institutions or to Representative Government. It is only an accidental result of Representative Government in Great Britain, and has never been adopted in a Federation (Canada, for reasons before stated, being excluded from consideration).

Conclusion

The foregoing articles have been written with the intention of placing before the electors of South Australia, in as plain and popular a form as possible, some of the leading facts and observations concerning this great and important question, and the writer hopes that he may not have been entirely unsuccessful in endeavoring to present to the public of South Australia Federation from his point of view. A subject can only be properly understood by regarding it from various aspects, and it is hoped that even those who do not agree with the ideas and conclusions of the writer may at least have derived some information and ground for thought.