

Notes on Australian Federation: Its Nature and Probable Effects

A Paper Presented to the Government of Queensland

Griffith, Samuel Walker, Sir (1845-1920)

A digital text sponsored by
New South Wales Centenary of Federation Committee

University of Sydney Library

Sydney

2001



<http://setis.library.usyd.edu.au/fed/>

© University of Sydney Library.

The texts and Images are not to be used for commercial purposes without permission

Source Text:

Prepared from the print edition published by Edmund Gregory,
Government Printer, William Street Brisbane 1896

First Published: 1896

Australian Etexts 1890-1909 prose nonfiction federation

2001

Creagh Cole Coordinator
Final Checking and Parsing

Notes on Australian Federation: Its Nature and Probable Effects

A Paper Presented to the Government of Queensland

by the Honourable Chief Justice of Queensland.

Brisbane

Edmund Gregory, Government Printer, William Street

1896

Prefatory Note.

THESE Notes were written in response to a desire expressed in different parts of Australia that I should write something in the nature of a short statement or exposition of the general subject of Australian Federation. They are necessarily of an elementary character, and will add little or nothing to the knowledge of those who are already familiar with the subject. But it is hoped that they may assist the large number of persons who, although they take an intelligent interest in the matter, are not fully acquainted with it, in forming a definite idea of the nature of the questions involved in the establishment of a Federal Government for Australia, and some notion of the probable consequences. They are as brief as seemed to be possible, consistently with an intelligible treatment of the points under discussion.

After these Notes were written, and while I felt a difficulty as to the mode in which they should be presented to the public, I happened to read a pamphlet published in 1826, called "A Paper on the Currency: Presented to the British Government by Mr. Huskisson (a Minister of the Crown)," which suggested the title that appears at the head of this Paper.

I may add that, for the most part, these Notes are in accordance with the views which found favour with the Convention of 1891, and are embodied in the Draft Commonwealth Bill adopted by that Convention.

Notes on Australian Federation: Its Nature and Probable Effects.

I.—The General Nature of a Federal Government.

The term “Confederation” has of late years been generally used to denote a political association of several States, with a central Government and Legislature, but in which the central authorities have to do with the constituent States only, having no direct relations with, or authority over, the people as individual citizens. There have been very many such confederations in the world, but none of them has been permanent.

The term “Federation,” on the other hand, is generally used to denote a political union of several States, which, for certain purposes, and within certain limits, is complete, so that the several States form one larger State with a common Government acting directly upon the individual citizens as to all matters within its jurisdiction, while, beyond those limits, and for all other purposes, the separate States retain complete autonomy.

The retention of autonomy by the several States, except so far as it is necessary to surrender it for the general good of the Federal State, is an essential condition which must be always borne in mind in considering the subject.

The defects of a Confederation cannot be better stated than in the words of Hamilton, one of the principal founders of the Constitution of the United States of North America, speaking from experience of the first Confederation of the thirteen New England States :—

“The great and radical vice in the construction of the existing Confederation is in the principle of legislation for States or Governments in their corporate or collective capacities, and as contradistinguished from the individuals of which they consist. . . . The United States has an indefinite discretion to make requisitions for men and money; but they have no authority to raise either, by regulations extending to the individual citizens of America. The consequence of this is, that though in theory their resolutions concerning these objects are laws, constitutionally binding on the members of the Union, yet in practice they are mere recommendations which the States regard or disregard at their option.

“Government implies the power of making laws. It is essential to the idea of a law that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. . . . The penalty, whatever it may be, can only be inflicted in two ways—by the agency of the courts and ministers of justice, or by military force; by the coercion of the magistracy or the coercion of arms. The first kind can evidently only apply to men; the last kind must, of necessity, be employed against bodies politic, or communities, or States. . . . Sentences may be denounced against them for

violation of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war, and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government; nor would any prudent man choose to commit his happiness to it.”^(a)

Such a Confederation is, indeed, rather a league or alliance of States than a State. The Colonies which are associated in the existing Federal Council of Australasia are an instance of an imperfect and limited Confederation.

It may be taken for granted, I suppose, that in speaking of Australian Federation it is intended to describe a form of Government which will embrace Legislative and Executive Authorities having direct relations with the individual citizens of Australia, which will consequently establish an Australian, as distinguished from a merely colonial or provincial, citizenship, and which will offer to the rest of the world the aspect of a single and undivided Commonwealth.

On the other hand, it is not, I apprehend, intended that the autonomous power of the several Colonies shall be surrendered, except so far as is necessary for the establishment of a Federal Government.

The recognition of the autonomy of the States involves the principle that the functions of the Federal Authority must be confined within specified and strictly defined limits, and that, except as to matters falling within those limits, the powers of the States shall be as large as before the federation.

The further principle is involved that the Federal Authorities, on the one hand, and the State Authorities, on the other, while supreme within their respective appointed spheres of action, can do nothing beyond them, and that any attempted exercise of power, whether legislative or executive, not within the appointed sphere is absolutely void and ineffective. The validity of an Act of the Federal Legislature is, consequently, as much open to question as that of an Act of the Legislature of any of the States, and may be inquired into by any Court before which it comes in question. This idea, it may be observed, is quite foreign to the notion of the sovereign power of Parliament, to which, under our Constitutions, we are accustomed.

The division to be made between the sovereign powers of government to be surrendered to the Federal Authority and those to be retained by the several States is, therefore, at the foundation of the matter.

The Dominion of Canada, although sometimes called a Federal Government, does not conform to the conditions of a true Federation. By the Constitution of that Dominion the Parliament of Canada has authority

with respect to all matters which are not assigned exclusively to the Provincial Legislatures. On the other hand, the Dominion Government acts directly upon the Provinces in some matters. It has power to veto their laws, and it appoints their Judges. The powers of the Provincial Legislatures are confined within specified limits, within which, it is true, they are all-powerful, subject to the power of veto of the Dominion Government. But they have lost the essential characteristics of autonomous States, and have been, perhaps unjustly, but not without some excuse, compared to glorified Local Authorities.

It follows from what has been said that a first matter for consideration in determining the nature of a Federal Union of autonomous States is “What powers are they willing to surrender to the Federal Authority?” It may be said generally that the subjects which naturally fall within the sphere of federal control have reference mainly to external relations, internal commerce, defence, the status of citizens, and the general government of the Federation with respect to matters of common concern.

Although the definition of these subjects is of first importance, it does not, perhaps, present so many difficulties or so much room for difference of opinion as many other questions involved in a Federal Constitution.

It may be convenient, by way of illustration, to give the list of subjects which by the Draft “Commonwealth Bill” adopted by the Convention of 1891 were proposed to be assigned to the Federal Parliament. It is as follows (Ch. I. s. 52):—

1. The regulation of Trade and Commerce with other Countries, and among the several States;
2. Customs and Excise and bounties, but so that duties of Customs and Excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another;
3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the Commonwealth;
4. Borrowing money on the public credit of the Commonwealth;
5. Postal and Telegraphic Services;
6. The Military and Naval Defence of the Commonwealth and the several States and the calling out of the Forces to execute and maintain the laws of the Commonwealth, or of any State or part of the Commonwealth;
7. Munitions of War;
8. Navigation and Shipping;
9. Ocean Beacons and Buoys, and Ocean Light-houses and Light-ships;
10. Quarantine;
11. Fisheries in Australian waters beyond territorial limits;
12. Census and Statistics;
13. Currency, Coinage, and Legal Tender;

14. Banking, the Incorporation of Banks, and the Issue of Paper Money;
15. Weights and Measures;
16. Bills of Exchange and Promissory Notes;
17. Bankruptcy and Insolvency;
18. Copyrights and Patents of Inventions, Designs, and Trade Marks;
19. Naturalisation and Aliens;
20. The Status in the Commonwealth of Foreign Corporations, and of Corporations formed in any State or part of the Commonwealth;
21. Marriage and Divorce;
22. The Service and Execution throughout the Commonwealth of the Civil and Criminal Process and Judgments of the Courts of the States;
23. The recognition throughout the Commonwealth of the Laws, the Public Acts and Records, and the Judicial Proceedings, of the States;
24. Immigration and Emigration;
25. The influx of Criminals;
26. External affairs and Treaties;
27. The relations of the Commonwealth to the Islands of the Pacific;
28. River Navigation with respect to the common purposes of two or more States, or parts of the Commonwealth;
29. The control of Railways with respect to transport for the purposes of the Commonwealth;
30. Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the Law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the Law;
31. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any Legislative powers with respect to the affairs of the territory of the Commonwealth, or any part of it, which can at the date of the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia;
32. Any matters necessary or incidental for carrying into execution the foregoing powers and any other powers vested by this Constitution in the Parliament or Executive Government of the Commonwealth or in any department or officer thereof.

It was also proposed that the Federal Parliament should have exclusive power to make laws dealing with the following subjects (Ch. II. s. 53):—

1. The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in Australia and the Maori race in New Zealand;
2. The government of any territory which may by surrender of any State or States and the acceptance of the Parliament become the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the Parliament of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine

stations, or for any other purposes of general concern;

3. Matters relating to any Department or Departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;

4. Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament.

Although the list appears a long one, it will be seen on attentive perusal that, with the exception of that first mentioned in s. 53, and to which reference will afterwards be made, it does not include any subjects which specially concern the domestic affairs of the separate States. Their powers with relation to the Constitution of their Legislatures, the disposition of Crown lands and mines, contracts and transactions between individuals, local government, the regulation of trades, joint stock companies, succession, criminal law, the administration of justice, education, police, direct taxation, public health, public works, and the infinite variety of subjects which fall within the words of their several Constitution Acts, "the peace, order, and good government" of the colony, are left unaffected and unabridged, except so far as they may, under paragraph 30 of s. 52, invite the assistance of the Federal Legislature. Of the Acts passed by the last Queensland Parliament not more than about half-a-dozen would fall within the list of subjects proposed to be reserved for the Federal Parliament.

The importance of this division of authority cannot be too much insisted upon, for, if it is lost sight of, it is impossible either to adequately appreciate the nature of the questions that arise with respect to the nature of the Federal Constitution, or to form an intelligent conception of the probable effect of federation upon the social and material condition of the people of the several Colonies.

Having determined the matters the control of which is to be surrendered by the several Colonies the next question which arises is, "In dealing with these matters, how, on the one hand, is effect to be given to the voice of the people of the whole Federal Commonwealth regarded as an undivided people; and how, on the other hand, is the separate individuality of the several component States to receive effective recognition?"

Unless provision is made for enabling the people as a whole to express their opinions, there can be no real Commonwealth. And unless the individual identity of the States is recognised in the Federal Parliament, they do not come into the Federation on equal terms, but the weaker in point of numbers are always liable to be overborne by the more populous.

In a country like the Brazilian Republic, where the several States have never had an independent autonomous existence; or in a country where the several States do not and are not likely to differ much in point of

population or climatic or social condition; or, again, in a country like Canada, where the autonomy of the Provinces is seriously impaired, this question would not perhaps be an urgent one. But in the case of Colonies long accustomed to a practically complete autonomy, and unwilling to surrender it, or in which climatic conditions are so diverse as in Australia, or in which the constituent States have before union incurred large permanent external obligations, it is very urgent. One instance may be sufficient. If, as must be assumed, an Australian Federal Parliament had sole control of the Customs revenue, its legislation on the tariff would vitally affect all the Colonies. And it is hardly conceivable that any less populous Colony would agree to a step which would in effect be a surrender of its power to frame its own financial policy without at least stipulating that in a matter of so great moment it should have an equal voice with its more populous associates.

Apart, however, from the improbability of any federation being established which would place the whole of Australia under the control of a mere majority of the electors, the examples of the two most conspicuous, if not only, instances of permanently successful Federal Constitutions—those of the United States of America and the Swiss Republic—tend to the same conclusion. In each case the Constitution provides that in one House of the Federal Legislature the representation of the States shall be equal.

Some have gone so far as to say that the necessity for a House so constituted is self-evident. Hamilton, however, was at first willing to make the representation in both Houses dependent upon population. But his first “Plan of Government” was based upon a theory of Union very different from that which was ultimately adopted. Some of the South American Federal Republics have adopted this plan. And for reasons already indicated there might be no objection to such a scheme in those countries.

It will probably be thought that, whether the necessity of equal representation of the States in one House of a truly Federal Legislature is or is not self-evident, it is at least certain that such representation is an essential condition of the accomplishment of Australian federation at the present time. The practical result would be that no law could be passed, that is to say, no change in the existing law could be made, nor any future law passed, by the Federal Parliament, without the consent both of a majority of the representatives of the people and of a majority of the States.

And this I shall assume as a fundamental principle so far as regards federal legislation. How far it will apply to the executive branch of the Government will require further inquiry.

II.—The Head of the Federal State.

Every State must have a permanent Head in whose name all acts of State are performed. Whether the term of office be for life or for a term of years makes no difference in principle.

The Head of an Australian Federation under the Crown would be the Sovereign of the United Kingdom. But as the Sovereign could not discharge the duties in person, it follows that She must be represented by some person appointed by Her, and deriving his authority from Her. The nature of his authority and office would not be affected by any means which the Sovereign might think fit from time to time to adopt for ascertaining the wishes of Her Australian subjects as to the choice of Her representative.

The functions of the representative within the limits of the duties and authority of the Sovereign Herself must, of course, be defined by the Sovereign.

III.—The Legislature.

For reasons already given it may be assumed that there will be two Houses of Legislature, in one of which the States would be equally represented, while the other would directly represent the people of the whole Commonwealth. The former may be conveniently called the Senate, the latter the House of Representatives.

IV.—The Senate.

The members of this House being assumed to represent the States *as States*, it might be supposed that it is the exclusive concern of the States to determine the mode of their election and the tenure of their office. This simple and logical view is adopted by the Swiss Constitution. That of the United States of America provides that the Senators, two from each State, shall be “chosen by the Legislatures thereof for six years,” and that “the times, places, and manner, of holding elections for Senators shall be prescribed in each State by the Legislature thereof, but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.” Congress, in 1866, passed a law dealing with the mode of choice. But it must still be by the Legislatures of the States.

An advantage of the American mode of choice, by the Legislatures, has been said to be that “it is a recognition of their separate and independent existence, and renders them absolutely essential to the operation of the national government.”^(a) There seems to be much force in this argument.

If the Swiss example should be followed, it might still be convenient to make provision as to the constituencies to choose the first members of the Senate; but as the elected House of a Federal Parliament could not under any circumstances be chosen until the Colonies had established the Federal constituencies, an operation which would afford time for dealing also with the choice of Senators, even this seems to be not absolutely necessary.

It is sometimes suggested that the choice of Senators should be made directly by the same electors who choose the members of the House of Representatives, but in larger constituencies, or by a more limited body of electors. If, however, it is recognised that the Senators are to represent the States *as States*, they ought, if so elected, to be chosen by the whole body of the electors. Such a plan, although suitable in a community occupying a small territory, would be open to serious objection in countries of such vast dimensions as some of the Australian Colonies.

Election by separate constituencies is not consistent with the notion of representation of the State as a whole. Moreover, in Switzerland, in the few cases in which the members of the Second Chamber are elected by popular vote, the whole canton is always one constituency. The cantons, however, for the most part follow the American plan of entrusting the choice to the Legislature.

The purpose for which a Second Chamber is established in a Federation is not to echo the voice of the First. It is an independent representative body with equal powers. Those who would make it a mere echo are open to

the charge of either not understanding or not desiring a real Federation in which the rights of the individual States will be conserved.

(a) Kent's Com. Part I., 225

V.—The House of Representatives.

It is plain that the apportionment of the representatives from each State in this House must be in proportion to population. No other basis has, indeed, ever been seriously suggested. But it does not follow that the gross population should be the basis. In the original Constitution of the United States of America the number for the purpose of apportionment was arrived at by adding to the whole number of free persons, excluding Indians not taxed, three-fifths of all other persons. It is now provided by the Fourteenth Amendment (1868) that when in any State the political franchise is denied to any male inhabitants of the State, being twenty-one years of age and citizens of the United States, or abridged except for crime, the basis of representation of the State is to be reduced in the proportion which the number of such male citizens bears to the whole number of male citizens of twenty-one years of age in the State. An analogous, but not identical, provision is contained in the Draft Commonwealth Bill.

With respect to the Federal franchise the American Constitution provides, as in the case of the Senate, that “the times, places, and manner, of holding elections for representatives shall be prescribed in each State by the Legislature thereof,” and also that “the electors in each State shall have the qualifications requisite for the electors of the more numerous branch of the State Legislature.” Much has been said and written on the subject of a uniform Federal franchise. On this point it may be observed that to require a uniform franchise appears to involve a violation of the principle that the internal affairs of the States are to be interfered with as little as possible. It involves, further, a disregard of the fact that the conditions of the several States may be very different, and that a franchise which would be very convenient for one State might be very inconvenient for another. It would or might further produce the extremely inconvenient result that in some of the States two different sets of electoral rolls would have to be compiled, unless, indeed, the Federal Authority assumed the right to dictate to the States what that domestic franchise is to be—an interference which would probably be regarded as intolerable.

Moreover, the establishment of a uniform franchise, regarded as a matter of federal concern, necessarily involves the creation of federal Courts of Revision, and the appointment of federal electoral officers independent of the State authorities. It would also seem to imply the complete regulation of all electoral matters, including the definition of electoral districts by the Federal Authority—a duty for which it would be manifestly unfitted—and the manner of holding Federal elections.

On the other hand, if all the States desire to adopt a uniform franchise they are free to do so. At present some of the Colonies have a ratepayers' roll of parliamentary electors, which is unknown in others. One allows female suffrage. The others do not. The advantages of general uniformity or symmetry may evidently be too dearly bought.

The history of the United States affords at least one example of the working of the system of non-interference. An attempt to impose a uniform franchise as a condition of Federation would in all probability seriously delay its accomplishment, and—a still more serious objection—sow the seeds of future dissension and discord.

Those who sincerely desire Federation will seek to lessen rather than multiply obstacles.

In dealing with this branch of the subject, a consideration of the nature of the matters which would lie within the sphere of the Federal Legislature will go far to afford a satisfactory answer to the questions that arise with regard to determining the persons by whom it should be chosen.

Whatever else is doubtful, this at least may be regarded as certain—that a Federal Constitution which is to be lasting must not attempt to embody as fundamental principles any particular notions that a majority of its framers may hold on the abstract question of the proper basis of the parliamentary franchise.

VI.—The Powers of the Federal Legislature.

The subjects which by the Draft Commonwealth Bill it was proposed to assign to the Federal Parliament have been already enumerated. The list contained in s. 52 of Chapter II. is perhaps likely to be adopted without material variation in any Federal Constitution that may be framed.

With respect to these subjects it was proposed that the powers of the State Legislatures should continue until the Federal Legislature had dealt with them. (Ch. V. s. 2.)

The second of the subjects which it was proposed should fall within the exclusive jurisdiction of the Federal Parliament will be referred to later. The first of those subjects may give rise to some difficulty, being, apparently, of an eminently controversial nature. The difficulty may, however, on closer examination appear less formidable.

The question of the immigration of the coloured races is both a political and social question, and involves important issues in both aspects. It seems necessary that the ultimate power of dealing with the matter should be left to the Federal Legislature, for it may give rise to difficult political problems seriously affecting the external relations of Australia; and the question of the character of the future civilisation of any part of the Federation concerns the whole of it. There may, however, be reluctance on the part of the people of the Northern part of the Continent to entrust the uncontrolled exercise of this power to a Legislature in which the majority would necessarily represent the people of other parts differing in climate and natural conditions, and might have no adequate knowledge of the real nature of the social and material aspects of the problem with which they were called upon to deal. But the probability is that the representatives of the Nation would rise to the occasion, and would decline to do any act that might inflict disaster on any part of the Continent merely in obedience to a popular cry. The gravity of the matter with regard to both external and domestic consequences would be felt to be so great that it could not fail to exercise that steadying influence which the undertaking of great responsibilities has almost always exercised amongst the British race.

Perhaps, all that can at present be asserted with confidence on this subject is that the future social history of Northern Australia will depend upon the effect which its climate produces on the European race, an effect which is still quite problematical, and on which little, if any, light is thrown by history. This is, indeed, so obvious to unprejudiced observers that it may be anticipated, with some degree of confidence, that a Federal Parliament, imbued with a due sense of its responsibility, would not, until

it is in possession of much fuller knowledge than is at present attainable, permit any action which would either result in the general substitution, within any part of the territory under its control, of Asiatic for European civilisation, or in the definite condemnation of any part of that territory to barrenness and desolation.

The anticipated difficulty may, therefore, prove, notwithstanding the strong differences of opinion likely to arise with respect to it, to be by no means insoluble. Two modes of solution, in addition to that already suggested, which is based upon a large confidence in the general intelligence of the representatives of the Southern parts of the Continent, may be suggested. One is to provide that the subject of Polynesian labour should be put upon the same footing as the subjects included in s. 52 of Chapter V of the Draft Commonwealth Bill—that is to say, that the existing laws should remain in force, with power to the State Legislatures to alter them subject to the paramount authority of the Federal Parliament. The other is to provide that those laws should not be repealed by the Federal Parliament without the consent of the State Legislatures, as was proposed to be provided in the case of an alteration of the territory of a State. The former mode would be founded upon confidence in the Federal Parliament; the latter upon distrust of it.

But, whatever mode of solving the difficulty may be adopted, it is plainly not one of so serious a nature as to stand in the way of a Federal Union between Colonies really desirous of effecting it.

VII.—The Executive Government.

There must be Federal Ministers of State to carry on the Federal Government. History affords no instance of the application of the system called “Responsible Government” to a Federal State. The system was not indeed invented, or rather had not been evolved from the free development of the British Constitution, when the Constitution of the United States was framed. It is probable, however, that an attempt will be made to introduce the system in any Australian Federation that may be formed in the immediate future.

There are perhaps few political or historical subjects with respect to which so much misconception has arisen in Australia as that of Responsible Government. It is, of course, an elementary principle that the person at whose volition an act is done is the proper person to be held responsible for it. So long as acts of state are done at the volition of the head of the State he alone is responsible for them. But, if he owns no superior who can call him to account, the only remedy against intolerable acts is revolution. The system called Responsible Government is based on the notion that the head of the State can himself do no wrong, that he does not do any act of state of his own motion, but follows the advice of his Ministers, on whom the responsibility for acts done in order to give effect to their volition naturally falls. They are therefore called “Responsible” Ministers. If they do wrong they can be punished or dismissed from office without effecting any change in the Headship of the State. Revolution is therefore no longer a necessary possibility; for a change of Ministers effects peacefully the desired result. The system is in practice so intimately connected with Parliamentary Government and Party Government that the terms are often used as convertible.

The present form of development of Responsible Government is that, when the branch of the Legislature which more immediately represents the people disapproves of the actions of Ministers or ceases to have confidence in them, the Head of the State dismisses them, or accepts their resignation, and appoints new ones. The effect is that the actual government of the State is conducted by officers who enjoy the confidence of the people. In practice they are themselves members of the Legislature, but it is plain that in principle they need not be members. The popular House might, if it thought fit, bestow its confidence upon men who could not obtain, or were unwilling to seek, seats in the Legislature.

The “sanction” of this unwritten law is found in the power of the Parliament to withhold the necessary Supplies for carrying on the business

of the Government until the Ministers appointed by the Head of the State command their confidence.

In practice, also, the Ministers work together as one body, and are appointed on the recommendation of one of them, called the Prime Minister. And, usually, an expression of want of confidence in one is accepted as a censure of all. This is not, however, the invariable rule; and it is evidently an accidental and not a fundamental feature of Responsible Government.

The introduction of this system into a Federal State, in which the relations of the two branches of the Legislature are quite different from those existing in a single autonomous State, evidently demands much consideration. Little assistance can be derived from history, and prophecy as to the working of a new political institution is very hazardous.

The framers of the American Constitution were oppressed with the fear of a powerful Sovereign. But they made provision for the choice of a President, whose power far exceeds that of any Constitutional monarch. No danger is now to be apprehended from the power of the Sovereign. Perhaps the greatest danger now to be feared is from the dogmatism of well-meaning persons who are so sure of their possession of all requisite knowledge that they think they can afford to disregard the lessons of history, and are able to frame a model Constitution which their successors for all time should thankfully accept.

The British Constitution, however, which is admittedly the freest ever known, and allows fuller scope for the will of the people than any Republican Constitution yet devised, is absolutely free from any dogmatic provisions on the subject of the appointment or tenure of office of Ministers of State. It has grown up with time, and is still growing and developing. And it is hardly too much to say that the permanent success of any human institution depends upon its capacity for growth and development. Modifications in the working of the system of Responsible Government are already apparent in Australia where, also, the Constitutions of the Colonies contain no express provision dealing with it.

When, therefore, it is a question of applying this system to a Federal Commonwealth, the rule should be to so frame the Constitution that Responsible Government may—not that it must—find a place in it.

It is not, indeed, likely to find a permanent place without some changes in its development and mode of operation. This might be predicted, indeed, of the same system as applied to any existing Constitution. But there are special reasons for thinking that modifications would develop themselves in a Federal State.

It has already been observed that in the present stage of development the

life of a Government depends on its possessing the confidence of the popular branch of the Legislature. In a Federal Legislature, however, the position and power of the Senate would be very different from that of any of the existing Australian Second Chambers. If it is accepted as a fundamental rule of the Federation that the laws shall not be altered without the consent of a majority of the people, and also of a majority of the States, both speaking by their representatives, why should not the same principle be applied to the no less important branch of State authority—the Executive Government? Would the States, *as States*, be content to be bound by the executive acts of Ministers merely because they possessed the confidence of the popular House? And if they insisted in withholding that confidence, and refused to provide the necessary Supplies until a change was made, it is hard to see what alternative there would be to a change of Ministers. Lately, in the French Republic, the Senate, by this means, compelled a change of Ministers. On the other hand, the popular House might repose full confidence in the Ministers and refuse confidence and Supplies to their successors.

Such a difficulty might be settled by compromise, as, indeed, it must, if the State Government is to go on. But a succession of such difficulties would conceivably lead to the adoption in practice of some other mode of determining the tenure of office of Ministers.

One mode is suggested by the American Constitution, which requires that the first appointment of the Ministers of State must be made with the approval of the Senate. It might come to be adopted as a working rule that the original choice of Ministers should be approved by the Senate, with the understanding that they would not afterwards withdraw that approval, while on the other hand the Ministers should be bound to retire if they did not retain the confidence of the House of Representatives. Another mode is suggested by the Constitution of the Swiss Republic, where the Ministers of State are elected for a fixed term by the Legislature. The formal appointment in a State “under the Crown” would of course be made by the Head of the State, but he might, in practice, accept and act on the direct nomination of the Legislature, instead of an indirect nomination through the Prime Minister, as at present. Again, it might be found that the presence of Ministers in Parliament was practically indispensable, or, as is thought in the United States, inadvisable. It should be free to the Federal Legislature to act on either view.

One other point should be referred to: Under a Federal Constitution the popular House would probably not be dissoluble at the wish of Ministers who failed to secure its confidence. This fact may, in course of time, introduce considerable modifications into the working of the system of

Responsible Government.

The result of all these considerations seems to be that the provisions of a Federal Constitution relating to Ministers of State should be limited to providing for their appointment by the Head of the State, and for their holding office nominally during his pleasure, but should neither require nor forbid their being members of the Legislature, and should not attempt to define their relations with either House of Parliament.

VIII.—Federal Courts.

The Judicial Power is an essential branch of every Government. And in order to secure the due administration of the laws of any State that power must, as pointed out by the Supreme Court of the United States,^(a) be co-extensive with the legislative power, and must be capable of deciding every judicial question which arises out of the Constitution and laws. It seems also to follow that it must derive its authority from the State whose laws it is to interpret and enforce. The inconvenience which would result if a Federal Government were obliged to depend upon the State Courts, with which it has no direct relations, to carry out its own determinations is apparent.

It may be assumed, therefore, that in the Australian Federation there will be a Federal Supreme Court and probably other Federal Courts, as in the United States. In that Republic the Supreme Court has no general appellate jurisdiction. Its jurisdiction extends, and is limited, to cases arising under the Constitution, the laws of the United States, and treaties made under their authority; cases affecting ambassadors, public Ministers, and consuls; Admiralty and maritime cases; controversies to which the United States are a party; controversies between States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming land under grants from different States, and between a State or its citizens and foreign States, citizens, or subjects. In cases affecting ambassadors, public Ministers, and consuls, and those in which a State is a party, the Supreme Court has original jurisdiction. In all the other cases it has appellate jurisdiction both as to law and facts, with such exceptions as Congress may prescribe.

The want of a general appellate jurisdiction has given rise to a great conflict of decisions in the Supreme Courts of the States as to many of the numerous matters not falling within the list just given—for instance, questions of common law—on which the law in all the States was originally identical. The advantages to be anticipated from a local Court of Appeal in Australia are very generally admitted, and it is likely that the Australian Federal Supreme Court would be endowed with a general appellate jurisdiction, although, in strictness such a jurisdiction would be a derogation from the autonomous powers of the States. The justification for such a derogation is, of course, to be sought in the practical benefits as compared with the theoretical objections.

The necessity for a single Court of Appeal to determine questions as to the validity of Acts of the Federal and State Legislatures is very apparent.

(a) *Cohens v. Virginia*, 6 Wheaton, 264.

IX.—The Federal Capital.

The Federal Capital should be central, easily accessible, and not unduly exposed to the risks of war or invasion. And its climate should not be such as to render it an undesirable place of residence.

The framers of the Constitution of the United States were of opinion that the capital should not form part of the territory of any State, but that the Federal Legislature should have exclusive power within it. The reasons for adopting this view are thus stated by Madison:—

“The indispensable necessity of complete authority at the seat of Government carries its own evidence with it. It is a power exercised by every Legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted, and its proceedings interrupted with impunity, but a dependence of the members of the general Government on the State comprehending the seat of Government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence, equally dishonourable to the Government and dissatisfactory to the other members of the Confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the Government would be both too great a public pledge to be left in the hands of a single State, and would create so many obstacles to the removal of the Government as still further to abridge its necessary independence.”^(a)

If the seat of Government were a populous city, the dangers, anticipated by Madison, of interruption, awe, or influence, would be intensified. The final selection of the Australian Federal Capital will probably rest with the Federal Legislature; but the weighty arguments of Madison may be expected to have due effect. If this should be so, it is unlikely that any of the present great Australian capitals would be selected, or even that the people of any Colony in which any such capital is situated would desire its selection, inasmuch as the withdrawal of so large a population from the State would largely diminish its representation in the popular House of the Legislature, and that population would be deprived of a direct voice in the national Government. These considerations may lessen the alarm which is sometimes felt as to the possible dangers to be anticipated from an undue aggrandisement or influence of any single city in the Federation which might become the Federal Capital.

It should be remarked that the Swiss and Canadian Constitutions do not in this respect follow the example of that of the United States. The conditions of Switzerland are, however, very different from those of

America and Australia; and the Constitution of Canada is, as already pointed out, not a true Federal Constitution.

(a) Federalist, No. XLIII.

X.—Federal Finance.

Every State must have at its own direct command sufficient sources of revenue to enable it to defray the cost of government. The principal objects of Federal expenditure, in addition to the salaries of the Head of the State, and of the Ministers and officers of the State Departments and the Judiciary, and the cost of collection of the revenue, would be the administration of the Post and Telegraph Departments, Defence, and Marine Lights and Beacons. The sources of revenue would, it must be assumed, include Customs and Excise duties, as well as the revenue from Posts and Telegraphs. The revenue at the command of the Federal Government would thus, unless indeed the Customs revenue were reduced to an extent which can hardly be contemplated, largely exceed the demands upon it.

Here, then, would be an obvious danger. The temptation, on the one hand, to find some pretext justifying the expenditure of money which is available for disposal at will, and on the other to exhibit the apparent generosity of remitting taxation the produce of which is not needed for direct expenditure, is too great to be put in the way of any body of men. It has been proposed that the surplus revenue collected by the Federal Government, after defraying the Federal expenditure, should be returned to the several States. This plan, however, leaves the States exposed to all the consequences of the dangerous temptation just adverted to; for the amount to be returned to the States would form, on any basis of division, so large a part of their ordinary revenue that any considerable diminution of it would throw their finances into confusion, and compel recourse to direct taxation, perhaps of a burdensome or even intolerable nature. In any case it would involve a compulsion of the several States by the General Government to change their financial policy. The Colonies will probably endeavour to secure themselves against this risk before entering the Federation.

It may be said that the representatives of the several States in the Federal Parliament might be relied upon to protect the revenues of their States by refusing to agree to dangerous remissions of Federal taxation or excessive Federal expenditure. No doubt they ought to do so. But experience (as in the case of the United States) need hardly be appealed to to show that it is not safe to leave it to one body of persons to say how much money shall be spent, and to another independent body to say how much shall be available for expenditure. The amounts needed by the States for carrying on their own Government would be fixed within narrow limits. The amounts which they must necessarily raise would, therefore, be equally fixed. Yet the

Federal Legislature might, on the assumption now under consideration, suddenly deprive them of a great part of their Revenue. Moreover, there is no subject on which the necessity of the retention of autonomous powers by the States is more apparent. And this is the best of all reasons for not practically surrendering them to the Federal Legislature, however trustworthy it may be in theory.

The only effectual protection would appear to be a provision by which the Federal Government should relieve the State Governments of a part of their annual expenditure approximately equal to the revenue withdrawn from them.

The Federal Revenue and Expenditure would thus more evenly balance, and an adjustment of the difference would be comparatively easy.

In the year 1894-5 the Customs and Excise revenues of New South Wales and Victoria respectively were a little more than the interest paid by those Colonies upon their public debts. Those of Queensland and Tasmania were a little less, and that of Western Australia much more, than their respective interest bills; while that of South Australia was not much more than half. In the case of Western Australia, a closer approximation may be expected in the immediate future. ^(a)

Although the correspondence in these amounts is no doubt accidental, it is likely to have some element of permanence. Logically no doubt, the revenue from Public Lands and Public Works should be compared with the interest bills; but while those sources of revenue could not be taken over by the Federal Government, and the Customs and Excise duties almost certainly would be, the charge of the Public Debts seems to be the branch of State expenditure that could most advantageously be assumed by it.

This part of the subject demands full investigation. Probably, by a comparison of the actual results for a series of years, and such forecasting of the future as may be done with some degree of certainty, a basis of adjustment could be found which would relieve the States from the danger of having their finances thrown into confusion by the action of the Federal Legislature, and the members of that Legislature from the double temptation already mentioned.

(a) The exact figures are as follow (Year Book of Australia):—

	Customs and Excise.	Interest.
New South Wales	£2,323,961 ...	£2,287,044
Victoria	2,118,115 ...	1,982,496
Queensland	1,195,696 ...	1,256,581
South Australia	534,850 ...	923,137
Tasmania	299,661 ...	332,197
Western Australia	513,508 ...	148,964

£6,985,791 .. £6,930,419

The figures for the year 1895-6 (kindly supplied to me by the Under Secretary for the Treasury) are as follow:—

	Customs and Excise.	Interest.
New South Wales	£2,097,045 ...	£2,318,399
Victoria	2,030,701 (approx.)	1,887,928
Queensland	1,361,212 ...	1,286,531
South Australia	559,242 ...	881,653
Tasmania (January-December, 1895)	322,754 ...	328,881
Western Australia	780,901 ...	162,954
	£7,151,855 ...	£6,866,339

XI.—State Finances.

The effect of Federation, as soon as a uniform tariff was established, would be to deprive the separate States of all power to impose Customs and Excise duties. They would also be relieved of the expense, and deprived of the Revenue, of the Post and Telegraph Department. All other sources of Revenue would be open to them. But these would all be in the nature either of payments for benefits or services, or of direct taxation, the advantages and disadvantages of which, as compared with indirect taxation, must vary according to time, place, and circumstances.

The Colonies must, therefore, in considering the question of entering into a Federation, always remember that after its establishment their direct sources of Revenue (in addition to anything they may receive by way of return from the Federal Treasury) would be limited to the receipts from Public Lands and Public Works and from direct taxation.

But although, for the reasons already given, the character of the initial financial arrangements of the Federal State would be likely to materially affect the future welfare of the Colonies, these arrangements are properly to be regarded rather as conditions of a Federal compact than as provisions of a Federal Constitution, and it is evident that their adjustment may call for ability of a different nature from that required for framing the political Constitution.

XII.—The Establishment of a Federal Government.

In a Republic the necessary and direct source of all authority is the people. Republican Constitutions are consequently regarded as the direct embodiment of the will of the people, which is expressed usually by a representative and quasi-legislative body called a “Constituent Assembly” or “Convention.” The functions and authorities of the Legislative, Executive, and Judicial bodies are defined by the Constitution, and are regarded as powers delegated by the people, and to be exercised within the limits prescribed by the Constitution. It is not unusual, for instance, in the Constitutions of the States forming the great North American Republic, to find the powers of the Legislatures and the modes of their exercise confined within limits which, in countries accustomed to regard the powers of Parliament as unlimited, are calculated to create some surprise.

The theory of the British Constitution and of the Constitutions of the British self-governing Colonies is essentially different. The British Constitution has grown up through long centuries of development, but the Constitutions of the Colonies have been established by, and derive their authority from, the Sovereign Power of the United Kingdom. They are contained in written instruments, usually Acts of the Parliament of the United Kingdom or Orders in Council made by the Sovereign under the authority of such Acts. The Colonial Legislatures and other Colonial Authorities have such powers, and such only, as are expressly conferred upon them by the paramount authority. But in practice the powers are almost unlimited, so that the Colonies are correctly termed autonomous. And the practice for many years has been that the Imperial Authority does not interfere, except with the consent of the Colonies themselves, expressed, in matters relating to the constitution, by the Legislatures, and, in matters relating to administration (such as treaties affecting the Colonies), by the Executive Government. But the notion that the people of the United Kingdom or of a Colony can directly exercise or confer any authority is quite foreign to the fundamental idea of British Constitutions.

If, therefore, a Federal Legislature and a Federal Government are to be established for Australia, the necessary authority for their establishment is to be sought from the Parliament of the United Kingdom; and that Parliament, it may be assumed, will not act except upon an expression of the wishes of the Colonies by their Legislatures, not as legislative acts—for a surrender of sovereign power is beyond the scope of their authority—but as the only recognised mode under the theory of the Constitution by which the wishes of the people can be declared.

The difference between the Republican and British theories of Government may be not inaptly described by saying that the former regards a Legislature as a body exercising a delegated and limited authority, while the latter regards it as the embodiment of the sovereign power of the State. A truly Representative Government is founded on the idea that, as the people cannot directly take part in the work of government, the sovereign power must be entrusted to a representative body, which is called Parliament.

The first step towards the establishment of a Federal Constitution is the framing of an instrument of government which the Legislatures of all the constituent Colonies will agree in recommending for enactment by the Imperial Parliament. All questions relating to the persons by whom, and the manner in which, the instrument of government is to be framed are really questions as to the mode which the Legislatures think most convenient for enabling them to come to a satisfactory conclusion on the final question whether they shall or shall not make such a recommendation. Those whose inclinations lean, consciously or unconsciously, towards the Republican theory that all authority is directly derived from the people may be expected to favour a mode which, although inconsistent with the theory of the existing Constitution, will as nearly as possible give practical effect to the Republican idea; while those who favour what may be called the "British" theory of Representative Government will be less inclined to do anything which may be supposed to derogate from the sovereign power of Parliament. But, as the end is greater than the means, and as the end is to frame an acceptable instrument of government, it would seem that the best mode of choice is that which is likely to best secure the framing of such an instrument—that is, the mode which is most likely to bring to the task the persons best fitted to accomplish it.

The framing of a Constitution is, however, but a step. If the draft submitted for acceptance is not acceptable to the Parliaments it will not be accepted, and the work must be begun afresh. The questions at issue are, therefore, not to be settled by a majority vote in a Convention appointed or elected to frame the instrument of government.

The functions of the members of such a Convention are, in truth, rather those of negotiators than of legislators, and their individual opinions upon matters of controversial politics must necessarily, if their work is to be successful, be subordinate to the end in view that of framing an instrument which will be accepted by all the Colonies. It is, indeed, not easy to see how, having regard to the principle that the autonomy of the Colonies is not to be interfered with, except for specified and limited purposes of the character indicated at the beginning of this paper, any question of

controversial politics can be legitimately introduced.

It follows from what has been already said that any subsequent alternations in the Federal Constitution would have to be made either, as in Canada, by the direct act of the Parliament of the United Kingdom, or by some process defined and embodied by its authority in the Constitution itself. If the former mode were adopted, it may be thought probable that the Imperial Parliament would require unanimity on the part of the Parliaments of the several States affected by a proposed alteration; while, if the latter mode were preferred, very careful provision would have to be made for protecting the rights of dissentient minorities.

Similar observations apply to the questions of the future division of the existing Colonies and the admission of new States into the Federation.

XIII—General Political and Social Effects of Federation.

An Australian Federal State, being a Federation of democratic communities, will, of course, be democratic. That is a mere truism. The particular form of democratic tendency that may exhibit itself will depend, not on the formal provisions embodied in the written Constitution, but on the wishes of the people of the Federation. Australia will, in truth, be neither more democratic nor less democratic by reason of Federation, unless, indeed, which is hardly conceivable, the Constitution should definitely prescribe a limited franchise. The effects are to be looked for in a quite different direction. Democratic principles are no more in question than the principles of monogamy or of freedom of conscience.

The first effect in point of importance, although some time may elapse before the effect is fully felt, will be the creation of an Australian nation, forming a distinct constituent part of the British Empire, having one mind, speaking with one voice instead of the six, often discordant, and sometimes inarticulate, voices now heard, consulted on all matters of Imperial concern, and exercising a powerful influence in the political affairs of the whole world. Many persons will see little or nothing in this. It may be admitted that some enlightenment, some knowledge of the conditions of the rest of the world, some acquaintance with the trammels which confine the men who, with a slight, and, perhaps, most often unconscious, note of disparagement, are called "Colonists" or "Colonial" Statesmen or Politicians, and which indeed are only rendered tolerable by the citizenship of the British Empire, are no doubt necessary for a proper appreciation of this phase of the subject. But the number of persons in Australia capable of this appreciation is daily widening. And there is no good reason why, in a few years, a man should not be as proud of his Australian nationality as of his British blood. I assume, of course, that the affairs of the nation would be conducted in such a manner as to command respect; but that will depend upon the people themselves, who may be safely trusted to see that their collective mind is expressed by competent voices. For a time, possibly, there would be some dearth of men possessing an adequate knowledge of the diverse conditions of soil and climate existing in so vast a territory, extending from far within the tropics to the 43rd degree of south latitude; but the representatives of the different States would soon insist upon such knowledge as a necessary qualification of Ministers of State. All this must be taken for granted.

It is difficult to estimate the effect of the change upon the material

prosperity of the continent as a whole. Yet it is not extravagant to anticipate that a powerful autonomous State embracing the whole of the Australian continent would possess material attractions that cannot be found in small and isolated communities. An Australian travelling out of his own country would meet other men with a different feeling—a firmer sense of equality. And, when at home, his vision would no longer be limited to his own corner of the continent, but everything affecting the welfare of any part of it would interest him. The effect on his whole character could not be unimportant.

The Defences of the continent would be put in the hands of a central and competent authority, and the maintenance of internal order would be effectually secured. There are, undoubtedly, many persons who cannot be brought to regard the necessity for defence as a real one, but they are probably a small minority. The era of war is not yet over, and the hunger for territory which might be gratified by the annexation of some part of unoccupied Australia is not yet satisfied.

The establishment of a Federal Court of Appeal might be expected to bring about a greater confidence in the speedy and inexpensive administration of Justice.

The objects of ambition—"the last infirmity of noble minds," perhaps, but one of the greatest incentives to noble and unselfish action that has been manifested in the long centuries of history—would be vastly enlarged. The regulation and administration of the finances of the Commonwealth would give scope for the best financial ability. The task, indeed, of devising and wisely modifying, as occasion might demand, schemes of taxation suitable to all the various and varying conditions of Australia would be a hard one, but all the more honourable. The subjects of legislation reserved to the Federal Legislature would afford room for the exercise of the best ability, which would not be hampered by the feeling that, after all, the benefit of its efforts would be limited to a handful of people.

It may be that many of these effects are only to be appreciated by what has been called an enlightened patriotism. But they are none the less real and substantial.

The SOCIAL EFFECTS would probably be considerable. The Federal Capital, at which the leading men of the nation would be resident, and where the work of the Government would be carried on, might be expected to form a real centre of social and intellectual life in Australia. Some political objections to the selection of one of the great commercial cities as the capital have already been pointed out. To these may be added others from a social point of view, which will readily occur to the reader. If, on

the other hand, the political capital is distinct from any of the commercial capitals, none of the latter would suffer the disadvantages that would follow from an undue concentration of influence in any one of them. Each of them would be dependent on its local situation and conditions for its prosperity, while it would lose the adventitious aids afforded by special tariffs designed or adapted to attract trade from its rivals or unfairly retain it for itself.

XIV.—Effects of Federation on the Political, Social, and Material Affairs of the Separate Colonies.

This is perhaps the aspect of the question which, as it would most nearly and directly affect the individual citizen, excites most apprehension. But, although prophecy is proverbially dangerous, we are not without some light thrown by the history of other Federal States.

The scope for POLITICAL ACTION would be restricted by the withdrawal of the subjects reserved for Federal control. But the subjects remaining would, as already pointed out, include, with the exception of the tariff, almost all the matters which have a direct bearing upon the social and material welfare of the people. The attention of the Parliaments and Governments, no longer distracted by the necessity of dealing with external affairs, would be more freely directed to those matters which are of such a nature that legislation and administration with respect to them can exercise a direct influence, beneficial or injurious, upon the community. It has been said, as already remarked, that the Colonies would be little better than glorified municipalities. This is not true, however, even of Canada, where the paramount power of the Dominion Parliament is much greater than any that is likely to be conferred upon a Federal Australian Legislature. It is certainly not true of the United States of America. Indeed, a moment's consideration of the subjects reserved to the States affords a sufficient answer to the objection. Nor does the history of those two countries afford room for the fear that so much of the available talent would be absorbed in the conduct of Federal affairs as to impoverish the governmental capacity of the States. There would still be a wide field for the exercise of political ability in State affairs; and it would probably be found, as in the United States and in Canada, that the State Legislatures and Governments would be the school for the development of the higher faculties needed in conducting the affairs of a nation.

So far as the SOCIAL CONDITION is concerned there would probably be little change, and that little would be mainly dependent upon the influence of the Federal Capital already sufficiently referred to. That capital would be the social centre, and a real social centre, for the Australian Nation, such as no capital of a single Colony can ever be. But the individual social characteristics of the Colonies would not be obliterated any more than in the United States, where Boston and New Orleans, New York and San Francisco, retain their distinct individualities, just as Brisbane and Hobart, Townsville and Sydney, Melbourne and Perth, must always be saved by their situation and climatic differences from the

dismal prospect of monotonous uniformity.

The question of the admission of the coloured races has been referred to from another point of view. That the future State policy on this matter will exert the most material influence on the social condition of the people cannot be doubted. It may, however, perhaps, be thought, for the reasons previously given, that Federation will not of itself make any great difference in this respect.

The most important of the MATERIAL EFFECTS of Federation would probably be those which would follow from making “trade and commerce absolutely free” within the Federal territory, as must inevitably happen when a uniform tariff is established for the whole Federation. This means the abolition of such Customs duties as have the effect of protecting the industries of one Colony against those of another. Those who believe in Freetrade would hail this result as an unmixed good. Those who favour the doctrines of Protection would regard it as a necessary evil incident to Federation, and some of them as so great an evil as to turn the scale against all its advantages.

On this point everyone will form his own conclusions. It may be remarked, however, that the extent to which protection is afforded against the rival industries of our neighbours is, after all, not very great. For the use of the Convention of 1891 careful calculations were made and submitted to the Committee on Finance, from which it appeared that—to take the case of Queensland—the duties levied on the importation of the produce of other Colonies, including New Zealand, amounted to only £102,000, while the duties levied on Queensland produce imported into the other Colonies amounted to £98,000.^(a)

It is clear that of the duties thus levied a considerable part have no protective operation. On the other hand, the existing duties in some of the Colonies have probably, with regard to some manufactured goods, such as machinery and woollens, a more or less prohibitive effect.

If trade and commerce were absolutely free, the sugar, rice, fruit, and cattle of Queensland would have free entrance into all the other Colonies, which would be of advantage to the producers of those articles. On the other hand, the wines, cereals, fruits, and manufactures of the other Colonies would be imported free into Queensland; and the Queensland producers of these things would be deprived of whatever advantage the present duties may give them over their neighbours. Similarly in the case of the other Colonies.

There can, however, be no bargain if neither party will concede anything. Whether the necessary concessions, without which the bargain cannot be concluded, are too great or not is a question to be answered by the parties

themselves. A large increase in the cultivation of sugar, rice, and fruit in Queensland might certainly be expected. As to the crops and minerals which are produced or raised in several of the Colonies, that one in which they can be produced or raised most cheaply would have the advantage, unless the difference in cost of production were less than the cost of carriage. For the rest, each place would reap the advantages due to its natural situation and climate and the energies of its people. A good port would still have the advantage of a bad one. Places of easy access would be better off than those less favourably situated. There being a fair field and no favour, the energies of the people would naturally and necessarily come to be directed to those industries in the prosecution of which the conditions of Nature and locality give them an advantage over their neighbours. There would be a strong disposition to attract shipping to the ports by the removal of all charges not absolutely necessary for revenue purposes, and a similar tendency to facilitate and cheapen the cost of transport of produce to market. It might, indeed, be necessary to entrust the Federal authorities with some power of control over this tendency.

These effects of freedom of trade and commerce relate, of course, exclusively to the produce and manufactures of Australia. The question of Protection against the rest of the world is a different one.

It may, however, probably be assumed, having regard to the extreme difficulty and inconveniences involved in the levying of direct taxation at a uniform rate by a Federal Authority throughout so immense a territory, that there would be of necessity a Federal Tariff of sufficient amount to produce a large Revenue. Whether it was called by the name of a "Revenue Tariff" or a "Protective Tariff" would be of little importance. If the views already expressed as to the extent of the State burdens to be assumed by the Federal Government should be accepted, the produce of the Tariff would probably be not much less than the aggregate amount now collected, and would not be open to much reduction, although the incidence and amounts of the duties might be changed. Any reduction would, as already pointed out, involve the imposition of direct taxation to a corresponding amount either by the Central or State Legislatures. It is probable that resort would not be had to this expedient, except in case of emergency.

The greater facilities for TRAVEL that would be afforded by the abolition of intercolonial Customs barriers might be expected to bring about a large increase of intercourse between the people of the several Colonies, with a corresponding increase in their acquaintance with one another and with the different parts of the Continent. The effects, both social and material, of such an enlargement of knowledge and extension of movement could not fail to be highly beneficial. The present lack of more

general acquaintance and intercourse is, indeed, probably, one of the most serious obstacles now existing in the way of Federation.

Some alarm has been expressed as to the ADDITIONAL EXPENSE to be occasioned by a Federal Government and Parliament. It is probable, however, that this expense, after allowing for the savings effected by the union of the Customs and Postal Departments under single heads, would not be considerable. A fair estimate of the necessary initial additional annual expenditure would probably not exceed £250,000. There would, no doubt, after the establishment of a uniform tariff, be a diminution of Customs Revenue by the loss of the duties levied on goods exported from one Colony to another ^(a), but this loss might be expected to be balanced by a saving in the administration of the Public Debts, or, in any case, could be met by a slight variation in the Tariff. This difficulty cannot be regarded as serious.

In this brief forecast of the effects of Federation, the element of the political views that may probably be prevalent in an Australian Nation has, of necessity, been omitted from treatment. The sole object has been to assist the reader in forming a more or less definite idea of the conditions of political, industrial, and social life that may be looked for in an Australian Nation.

Brisbane, July, 1896.

(a) The actual figures as supplied to the Convention are as follow:—

	Amount of Duties Levied by each Colony on the Produce of other Colonies imported into it.	Amount of Duties Paid on the Produce of each Colony when imported into the other Colonies.
New South Wales	£112,509 ...	£157,190
Victoria	230,647 ...	59,363
Queensland	102,313 ...	97,735
South Australia	33,819 ...	33,407
Tasmania	13,060 ...	37,472
Western Australia	19,004 ...	3,983
New Zealand	18,058 ...	140,260
	£529,410	£529,410

(a) See preceding note.
