

(No. 115.)



1861.

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T A S M A N I A.

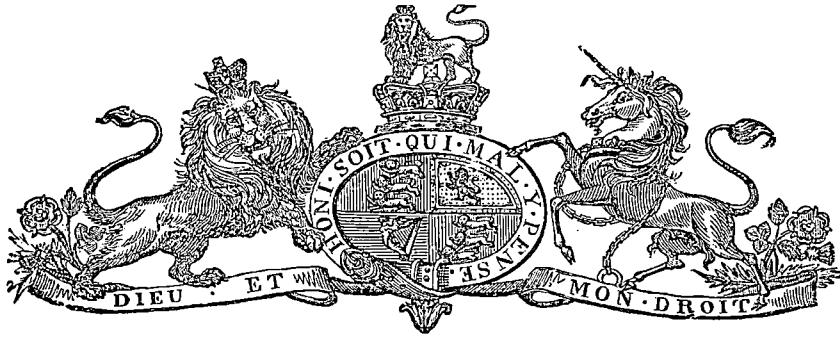
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F È D E R A T I O N.

CORRESPONDENCE.

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Laid upon the Table by Mr. Innes, and ordered by the House to be printed,  
22 October, 1861.



[ Received from MR. J. A. YOUL. ]

*To the Right Honorable HENRY LABOUCHERE, Her Majesty's Principal Secretary of State for the Colonies.*

THE MEMORIAL of the GENERAL ASSOCIATION for the AUSTRALIAN COLONIES, adopted at a Meeting held in the City of London, on the 31st day of March, 1857, WILLIAM CHARLES WENTWORTH, Esquire, late Member of the Legislature of New South Wales for the City of Sydney, in the Chair.

RESPECTFULLY SHOWETH :

THAT, at the time the Constitution now in force for the Government of New South Wales was presented by its framers to the Legislature of that Colony, it was foreseen that a Federal Assembly would soon be an indispensable bond of union for all the Colonies forming the Australian Group, as the subjoined extract marked (A) from the Report of the Committee appointed to prepare the Bill which resulted in that Constitution, will prove.

That the same conviction was strongly impressed upon Earl Grey, as Secretary of State for the Colonies, at a much earlier period, as clauses for the establishment of a Federal Assembly were introduced by him into the previous Bill for the government of the Australian Colonies, though these clauses were subsequently abandoned by his Lordship from difficulties which occurred, or were suggested, in the progress of that measure through the House of Commons.

That the want of a Federal authority has been already felt in regard to the establishment of Light-houses in Bass's Straits, to the collection of Custom Duties on the River Murray, which intersects the three colonies of South Australia, Victoria, and New South Wales, and to the construction of an Electric Telegraph between Adelaide and Melbourne.

That, although the Light-houses so indispensable for the safety of numerous Vessels that are constantly navigating Bass's Straits, have, it is believed, at last been undertaken, under arrangements made after considerable delay, expense, and difficulty, among the colonies bound, in justice, to contribute to their erection and support, and although the Electric Telegraph between Adelaide and Melbourne is about to proceed, under a similar arrangement, it is evident that all such arrangements must be uncertain and unsatisfactory, so long as the Federal sanction necessary for their legalization is wanting.

That, although by a similar arrangement between the Governments of South Australia, Victoria and New South Wales, the Custom Duties payable on commodities conveyed to those Colonies by the River Murray are collected in South Australia, and divided among the Governments of those three Colonies, the result of this clumsy contrivance is, that the Duties only which are payable by law in the Colony of South Australia can be levied there, and that hence the Colonists of Victoria and New South Wales, consumers of those commodities, pay a greater or less amount of Duty than are leviable by law in the Colonies to which they respectively belong, and in some instances pay Duties on commodities not subject in their own Colonies to any duty at all.

That, under these circumstances, it is not to be wondered at that a strong feeling of discontent should be growing up among the Inhabitants of these Colonies; from their being compelled to resort to such indirect, tedious, and illegal expedients in substitution of that Federal authority, without which their several constitutions must continue incomplete, as regards all measures and undertakings which require the joint action and co-operation of any two or more of them.

That the amount of inconvenience arising from this want of a Federal authority may be collected from the speech of the Hon. Mr. E. Deas Thomson, delivered by him on the 29th of October last, in the Legislative Council of New South Wales, in his capacity of Vice-president of the Executive Council, and as representing in that House the opinions of the Parker Ministry; in which speech there is an enumeration of seven matters requiring immediate Federal action. *Vide* extract B.

That in the subjoined extract from the *Melbourne Argus* of the 4th November last, an influential and widely-circulated paper in Victoria, the necessity for establishing at once a Federal Assembly is strongly insisted upon. *Vide* extract C.

That it is understood that this necessity has been strongly represented by the Government of South Australia; and it may be presumed, although Responsible Government is only just beginning to take effect in the Australian Colonies, that such representations have been general, from the Governors of the Colonies composing the Australian Group, to Her Majesty's Secretary of State for the Colonies.

That your Memorialists humbly conceive, that it is the duty of the Imperial Government to anticipate the wants of its Colonies, to see that their Institutions keep pace with their wants, and not to defer an indispensable enactment like this, until grave inconveniences arise, and produce, as they assuredly must, universal dissatisfaction and complaint.

That a Federal Assembly can only originate in an Act of Parliament directly constituting such a body, or giving the Legislatures of the different Colonies, now or hereafter composing the Australian group, or any two or more of them, a permissive power to form or join such a Federation; when, and as they may think fit.

That the latter course is that which your Memorialists would press upon your attention as the most desirable, if not the only practical course which can now be adopted; but that, in their opinion, a complete equality of representation, as between all the Australian Colonies, should be insisted upon, without reference to the extent of their population, in any Federal Assembly that may be formed.

That this principle of equality is quite as indispensable to the fair representation of these Colonies in a Federal Assembly, as it is to the fair representation of the several States of America in the senate of that country; and that the adoption of any other principle would tend to the undue debasement and detriment of the weaker Colonies, and to the unfair exaltation and advancement of the stronger.

That, in the opinion of your Memorialists, a permissive Act of Parliament, which would enable any two or more of these Colonies to depute an equal number of persons to be selected by or from each Legislature to form a convention, with power to create a Federal Assembly, and to define, as far as possible, the various subjects to which this federal action should extend, is all the Parliamentary interference that is required; and that, in our opinion, this object would be accomplished by the passing of some such Bill as is subjoined, (marked D.)

That in the event of any jealousy arising in the Colonies in respect to the place for holding the Federal Assembly, or the power of any Governor to assent to or dissent from its acts, these jealousies, we submit, might be got rid of in the first instance by making the Assembly perambulatory (as suggested in the article from the *Argus*), and giving the veto to its acts only to the Queen; but as the Bill subjoined does not contemplate or allow any Federal Revenue, properly so called, to be at the immediate disposal of the Federal Assembly, and as it will be little more, under these circumstances, than a Court of Registry for its own acts, it is not conceived that the Colonies generally will feel much interest in its locality. The subjects it has to legislate upon are few and its Sessions will be short. Each Colony represented in this Assembly ought to bear a quota of the expense necessarily attendant upon it, as well as a just apportionment of the expenses attendant on those acts or measures in which such Colony may be interested.

That in the event of any supposed encroachments of authority by the Federal Assembly being resisted by any of the Colonies submitted to its jurisdiction, the Privy Council might be resorted to in order to settle any such difference, until the creation of a Court of Appeal for these Colonies generally, or, in the last instance, after the creation of such a Court.

That your Memorialists do not consider it necessary to go into further details, as they do not desire that Parliament should legislate directly on this subject, and the necessary details connected with the proper creation of a Federal Assembly will rest with the Convention to whom this power may be delegated by the Colonial Legislatures, which doubtless will select the most competent men they possess for the discharge of this very important function. The perfection, too, of such details, in the first instance, will be of less importance if that permissive Act of Parliament, which your Memorialists request you to bring in and pass with all convenient speed, shall contain a power

enabling the Federal Assembly itself, after it shall be created, to supply any necessary details which may be omitted in its original constitution.

Signed, by order of the Meeting,

W. C. WENTWORTH, *Chairman.*

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## A P P E N D I X.

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### A.

ONE of the most prominent Legislative measures required by this Colony and the Colonies of the Australian Group generally, is the establishment at once of a General Assembly, to make laws in relation to the Inter-Colonial questions that have arisen or may hereafter arise in them. The questions which would claim the exercise of such a jurisdiction appear to be as follow :—

- 1st. Inter-Colonial Tariffs and Coasting Trade.
- 2nd. Railways, Roads, Canals, &c, running through any two of the Colonies.
- 3rd. Beacons and Lighthouses on the Coast.
- 4th. Inter-Colonial Penal Settlements.
- 5th. Inter-Colonial Gold Regulations.
- 6th. Postage between the said Colonies and England.
- 7th. A General Court of Appeal from the Courts of such Colonies.
- 8th. A power to legislate on all other subjects which may be submitted to them by Addresses from the Legislative Councils and Assemblies of the other Colonies, and to appropriate to any of the above objects the necessary sums of money, to be raised by a per centage on the Revenues of all the Colonies interested.

As it might excite jealousy if a jurisdiction of this importance were to be incorporated in the Act of Parliament which has unavoidably become a necessary part of the measures for conferring a Constitution on this Colony, in consequence of the defective powers given by Parliament to the Legislative Council, your Committee confine themselves to a suggestion that the establishment of such a body has become indispensable and ought no longer to be delayed; and to the expression of a hope that the Minister for the Colonies will at once see the expediency of introducing into Parliament, with as little delay as possible, a Bill for this express object.

W. C. WENTWORTH, *Chairman.*

*Legislative Council Chamber, Sydney, 28th July, 1853.*

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### B.

*EXTRACT from the Honorable MR. E. DEAS THOMSON'S Speech in the Legislative Council of New South Wales, on the 20th of October, 1856.*

“THE time, I look upon it, is not far distant when the Colonies will adopt some Federal arrangement, and by this means a Tariff congenial to all may be agreed upon. The Land system may, in the same manner, be settled upon a good and sound basis, so that the different Colonies may not be found endeavouring, as it were, to outbid each other. Another matter which ought also to be settled with Victoria is the management of the Gold Field; and I will here observe that it is the intention of the present Government, so far as it is concerned, to adopt the policy of Victoria, which was found to work so beneficially. The question of Postal Communication could also be settled upon a Federal basis, as could also the subject of International Railways. With reference to these, it is important that some settlement should be come to as to the gauge to be adopted. In cases where the Electric Telegraph passes through various Colonies it might prove a subject for Federal arrangement; but there is one still more important object, in which already some progress has been made, in obtaining the concurrence of the adjoining Colonies—that is, the settlement of Lighthouses on the Coast. Therefore there are *seven* great questions which ought to be submitted to some general Federal Assembly representing all the Australian Colonies.”

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## FEDERATION OF THE COLONIES.

(Taken from the *Melbourne Argus*, Nov. 4, 1856.)

SOMETHING more than two years ago a series of letters appeared in the *Sydney Morning Herald*, under the signature of "John Adams," respecting the Federation of the Colonies of this hemisphere. The importance of this measure has been demonstrated by experience. Since that time numerous illustrations have transpired of the inconvenience, loss, and obstruction which have resulted from the want of unity in the Australian Colonies. The question of Federation is not, however, unattended with serious difficulties. Its importance and desirableness is at once perceived—its practicability becomes a question involving many considerations; some which will be determined by time, and others which will rather gain additional strength by delay.

Whenever the question of Federation shall assume a practical shape, it must be determined where shall be the seat of federal organization, and where the place of meeting for the Legislature. The perambulating system may, perhaps, for a few years, meet the difficulty; but ultimately some definite locality must be chosen where we must deposit the staff of federal power. It is probable that on the threshold the rival claims of different Colonies may create an obstacle not easily overcome. It is clear the Home Government is not in a position to establish Federal Government absolutely, and without the direct concurrence of the Colonies themselves. Whatever powers are deposited with the Federation must be abstracted from the Local Legislatures. Having once confided to their management these powers, it would be a matter of complaint were they withdrawn, except by their own consent.

In any establishment of Federal Government, population and wealth must both have their weight. It is quite clear that, if Federal Government were established without some balance, giving increased representation to remote localities, the objection which prompted the separation of all the surrounding Colonies, from New South Wales, would oppose their reunion under any Local Government.

The necessity for some Federal system has been demonstrated so clearly by recent events, that we presume no sensible man will deny it any longer. There are questions superior in moment to all others submitted to the Legislative body, which cannot be limited to geographical bounds. The late attempt to tamper with the price of land was particularly objectionable, inasmuch as it would interfere with the system established throughout the whole of these Colonies, and throw every Colony individually into a fever of dangerous, and, in the end, useless competition. It would have brought the various land-funds down to nothing, and, for a time, placed the Colonies of Victoria and New Zealand, in relation to New South Wales, much in the position of rival coachmasters, who begin by lowering the rate, and go on until they take their passengers for love, and finally crown their liberality by presenting them with a glorious dinner. All this might be very amusing and exciting during its short-lived continuance, but could not certainly establish their credit, or give any confidence in those who dealt with the competing proprietors. What is true with reference to the coaching system, holds good in reference to competition of Colonies. They cannot gain by each other's ruin. Those who trust them when they are entering into wild and spiteful rivalry will only come in for a very small dividend. It is just for the same reason that the interference with the Tariff proposed by Mr. Cowper would be especially reprehensible. We have our Commercial system dovetailed with that of every adjacent Colony; our capital goes further by the freedom and facility of transshipment; the mercantile houses themselves are to a very considerable extent but co-partneries. Thus, any tampering with our commercial system is not merely to be deprecated as a violation of free-trade, and the imposition of a disproportionate burden upon labour, but especially as a disturbance of commercial confidence, the consequences of which cannot be possibly foreknown. We have already seen the importance of some arrangement to harmonise the customs of the different Colonies. The pressure of this subject will increase when Moreton Bay is severed from New South Wales. The absurdity of that separation would be enormously augmented were the rival Governments to thwart each other in every other form of petty opposition, or, for the sake of gaining a few pounds only, to harass the border trade, and beset the rivers with custom-houses and preventive men. We shall have reproduced all the annoyances and follies of the Murray River, unless some arrangement be made beforehand to prevent such mischief. There are innumerable other points of contact where the interests of the Colony unite, and where rival Governments have ingeniously established points of contradiction and collision. The Postal arrangements, the establishment of Lighthouses, the formation of Courts of Appeal, the means of common defence, the formation of great trunk Lines of Railroad, the establishment of Electric Telegraphs—all these are points where the interests of the Colonies are one. We are not prepared to say that Tasmania is so deeply concerned. Thus any fellowship which that valuable dependency will accept must be defined by itself, and be of its own seeking. It is not at all desirable to thrust upon an island not connected necessarily with the Colonies of New Holland, a commercial and political system which perhaps she may not be inclined to prize.

Such are some of the great public reasons for seeking a combination of Colonial interests, and preventing that miserable and mischievous rivalry which will impoverish and obstruct them all. Were Federal Government established, its land system would be one; its securities would probably be valued at a higher price; its power to borrow in the London market would be augmented by its concurrent action; great works would be simultaneously and unitedly undertaken; the Customs Revenue would be apportioned by rules which would approach as near to equality as it is possible to do under a system where the loss and gain of the different Colonies depend upon the vigilance of the police or the expertness of smugglers.

The question however remains, how shall this Federation be effected? We believe it might be accomplished, first by the action of the Home Government. A law should be passed enabling the Colonies to enter into engagements

for defined purposes—of course subject to the oversight and approval of the Crown. Having an enabling law and not a compulsory enactment, they could either allow the power to slumber, or put it in motion at their pleasure. If two Colonies—say Moreton and New South Wales—chose to establish a Federation, it would be valid so far as their interests were concerned. If, acting in a liberal spirit, the Governments of New South Wales and South Australia co-operate there can be no question that Victoria would speedily join. At some future time, when the Federation had grown into its full proportion, the nice points, which are now enveloped in some difficulty would admit of solution. It would then be determinable whether New South Wales, or Victoria, or some other place not yet known to fame, should be the seat of the federal system. Or it might ultimately be found possible to commit to each of the Governments the execution of the determinations of the general body, and thus avoid, for a time at least, anything more than the establishment of a mere chamber of registration, which might be also a high court of appeal.

All these are points which require elaboration, but nothing is more certain than that it is impossible for the Colonies to continue as they are—isolated and antagonistic—liable to have their commercial and land systems violently shaken, in order that a feeble Ministry may realise the political capital requisite to retain them in power.

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D.

**BILL TO EMPOWER THE LEGISLATURES OF THE AUSTRALIAN COLONIES TO FORM A FEDERAL ASSEMBLY.**

WHEREAS it is expedient to empower the several Legislatures of New South Wales, Victoria, South Australia, and Tasmania, to form a Federal Assembly: Be it therefore enacted, &c., as follows:—

**1** Any two or more of the above-named Legislatures are hereby respectively empowered to select and depute any [*four*] persons, being Members of either of their Houses of Legislature, or not Members thereof, to form a Convention for the purpose of creating a Federal Assembly, with all necessary powers and incidents, and such Federal Assembly, when so created, shall have power, from time to time, to amend its Constitution, as occasion shall require.

**2** Such Federal Assembly shall have full power and authority to make laws for such Federal Colonies, on the following subjects; viz., Tariffs, Light-houses, gauges of connecting Railways, Navigation of connecting Rivers, Telegraphs communicating with any two or more Colonies, Postage between such Colonies, the upset or minimum price of Land, management of the Gold-fields, a common Coinage, Weights and Measures, General Defence, a Court of Appeal, Penal Settlements, and upon any other subject which shall be lawfully submitted to such Federal Assembly by an address from the Legislatures of the said Federal Colonies having an interest in the question so submitted.

**3** The time and place of holding such Federal Assembly shall be fixed by the Governor-General, [*or Senior Governor of the said Federal Colonies,*] and the said Governor-General, [*or senior Governor,*] shall also have the power to assent to or dissent from the acts of the said Federal Assembly; and such acts, notwithstanding such assent, shall be subject to the disallowance of Her Majesty in Council, at any time within one year after such assent thereto shall have been given.

**4** The said Federal Assembly shall have power to appoint a President at the commencement of each Session thereof, and oftener, if a vacancy shall arise; and to fix the amount of its own expenses, and the salaries of its officers, by acts to be passed from time to time and assented to as aforesaid. And all such expenses and salaries, and all other expenses incident to any act or acts of the said Federal Assembly, shall be apportioned by such Assembly among the respective Colonies represented in such Federal Assembly, in such proportions as such Assembly shall direct; and all such expenses shall be provided for by the respective Legislatures thereof accordingly.

**5** In the event of any one or more of the said Australian Colonies not becoming Members of this Federation in the first instance, such Colony or Colonies, and any future Colony of the Australian group not now in existence, and not being a Penal Colony or settlement for, or consenting to, the reception of convicts or exiles from Great Britain or elsewhere, may join such Federation, and have the right of sending to the said Federal Assembly the same number of Representatives as shall be fixed for all the other Colonies represented in the said Federal Assembly: Provided the respective Legislatures of the Colony or Colonies so desiring representation therein shall pass an Act submitting such Colony or Colonies to the Federal jurisdiction of such Assembly.

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*THE following is a Copy of a Letter received from the Right Honorable HENRY LABOUCHERE, Secretary of State for the Colonies, in reply to the Memorial from the "General Association to the Australian Colonies," requesting him to bring a Bill into Parliament, empowering those Colonies to form a Federal Assembly.*

SIR,

*Downing-street, May 16th, 1857.*

I AM directed by Mr. Secretary Labouchere to acknowledge a Memorial presented by you, as Chairman of the General Association for the Australian Colonies, urging on Her Majesty's Government the importance of introducing into Parliament a Bill for the purpose of enabling the Colonies now composing the Australian Group to form a Federal Assembly for legislating on subjects of common interest to them, upon the principle of equality of the number of Delegates from each Province.

2. Mr. Labouchere has considered the statements and arguments of this Memorial with that attention which the great importance of the subject and the character of the signatures attached to it demanded.

3. He is fully sensible of the inconvenience which has already been felt in some instances in Australia from the want of any means of joint action by the several Colonies, and he is aware that inconvenience of this kind is likely to be experienced still more strongly in future unless some remedy be found for it.

4. Nevertheless, after weighing, to the best of his ability, the reasons for and against the scheme submitted to him, he has arrived at the decided opinion that Her Majesty's Government would not in reality promote the object of the Memorialists by introducing such a measure as that of which the outlines are given in the Memorial, notwithstanding its purely permissive character.

5. Without entering into all the objections to which it appears to him exposed, it may be sufficient to say that he cannot think it at all probable that the several Colonies would consent to entrust such large powers to an Assembly thus constituted, or to be bound by laws imposing taxation (such as is involved, for instance, in tariff arrangements), or in the appropriation of money, which is involved in several of the subjects of legislation suggested by the Memorialists; and, even if they were to consent in the first instance to the establishment of such a system, the further result would, in his opinion, very probably be dissension and discontent. He does not, therefore, think that Her Majesty's Government ought to introduce a measure of this character, although merely permissive in its provisions, unless they are convinced that there is a reasonable prospect of its working in a satisfactory manner. Mr. Labouchere would not consider himself warranted in making such a proposal, unless he was both himself satisfied that it was founded on just and constitutional principles, and also that there was reason to believe that it was likely to be acceptable to the Colonies which were concerned in it.

6. Mr. Labouchere proposes to send copies of this Correspondence to the Governors of the several Australian Colonies for their information, and he will readily give his best attention to any suggestion which he may receive from those Colonies in reply, with a view to providing a remedy for defects which experience may have shown to exist in their institutions and which the aid of Parliament is required to remove. In the meantime he cannot but hope that even if any attempt to provide for their joint action in a regular and binding manner, by the establishment of some general controlling authority, should be found impracticable or premature, yet that much may be done by negotiation between the accredited Agents of the several Local Governments, the results agreed upon between such Agents being embodied in legislative measures, passed uniformly and in concert by the several Legislatures.

I am, Sir,

Your obedient Servant,

HERMAN MERIVALE.

W. C. WENTWORTH, *Esquire.*

*COPY of a Letter from the "General Association for the Australian Colonies" to the Right Honorable Mr. LABOUCHERE.*

*General Association for the Australian Colonies,  
London, 30th May, 1857.*

SIR,

IN reply to your letter of the 16th instant, conveying to me, as Chairman of the General Association for the Australian Colonies, Mr Labouchere's decision on the Memorial presented to him some time since by a deputation from that body, urging upon him the importance of at once introducing a Bill into Parliament, to enable the Colonies of the Australian group to form a Federal Assembly, with power to legislate upon subjects of common interest to them, I have the honor to state, that I have been directed to express the regret of the Association at the delay which Mr. Labouchere's proposed reference to the Governors of those various Colonies will unavoidably occasion, and their hope that this reference will be made as speedily as possible, so that the opinions and suggestions of the several Colonial Legislatures on the important matters which the Memorial involves may be obtained previously to the next meeting of Parliament.

I have the honor to be, Sir,

Your most obedient Servant,

W. C. WENTWORTH,

HERMAN MERIVALE, *Esquire.*