

1885.
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VICTORIA.

FEDERAL COUNCIL OF AUSTRALASIA ACT 1885.

DESPATCH FROM THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR
THE COLONIES TO HIS EXCELLENCY THE GOVERNOR WITH REFERENCE
TO THE FEDERAL COUNCIL OF AUSTRALASIA ACT 1885.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.

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Downing-street,
14th August, 1885.

SIR,

You will have learnt by telegraph that the Act for constituting a Federal Council of Australasia has been passed by both Houses of Parliament, and has received the Queen's Assent. This measure had passed the House of Lords and was awaiting its second reading in the House of Commons when Her Majesty's present advisers assumed office, and they lost no time in considering its provisions and the various suggestions which had been made for its amendment. I have had the advantage of frequent and full communication with the Agents-General, who clearly explained to me the views and wishes of their respective governments.

2. I had no difficulty in deciding that, amid the pressure of other business demanding attention at a late period of the session, there could be little or no prospect of such full discussion of the measure as would be necessary in order to do justice to and in some measure to reconcile the divergent opinions which some of the Colonial Governments had presented for consideration, especially as the questions raised were such as would have required more complete explanations than could be obtained by telegraph. I concluded, therefore, after careful examination of the amendments which had been placed before me, that with one exception, to which I will presently refer, it was my duty not to propose or assent to any amendment of the Bill. Beyond adding the 31st clause, my predecessor had adhered as closely as possible to the Draft prepared by the Convention at Sydney, where all the Colonies were very efficiently represented; and it would have been inexpedient to make any avoidable alterations in that Draft unless such alterations could be previously considered by the same or a similar convention.

3. The Act has accordingly been passed without any amendment in either House of Parliament beyond the omission of the last eleven words of the 31st clause. These words were not in the Draft of the Bill as it was sent out to the Colonial Governments for their consideration in my predecessor's Despatch of the 11th December last. He caused them to be added because, if the principle of the 31st clause were to be accepted, it was desirable that a Colony having ceased to be represented in the Federal Council should have the power of freeing itself from the operation, within its borders, of any legislation which under altered circumstances might have ceased to be applicable or desirable. But my predecessor had, as I understand, in compliance with the representations of the four Colonial Governments which were most desirous to see the Council constituted, agreed to omit the words in question; and I concurred in the opinion that an addition made after the Colonies had been formally consulted should not, however desirable in itself, be retained in the Bill in opposition to those representations.

4. With regard to the principle of the 31st clause there has been more discussion than on any other detail of the Act.

I fully agree that if this measure had been intended, or could operate, to effect an actual confederation or union of any four or more Colonies, it would have been undesirable to introduce into it any provision facilitating, or perhaps even suggesting, the disruption of such union. But as the Colonial Constitutions remain unaffected, securing to each Colony that self-government which it now enjoys independently of the other Colonies, and as at any time it may become the wish of the majority of the Colonies who have joined the Council to apply to themselves through its agency some legislation which may not be applicable or acceptable to one or more of their number, it appears reasonable that there should be left open a mode of retiring from the Council. I am happy to say that this view ultimately commended itself to the Governments of the four Colonies which now desire the establishment of the Federal Council, and that in order to remove the objections of the Government of New South Wales they consented to the retention of the clause.

5. I need not say that I have given my full and anxious consideration to the objections expressed by the Government of New South Wales, and to the suggestions which they made for the amendment of the Bill, in order to obviate those objections. They desired to amend the Bill so as to establish, although in a different way, the

principle for which the Government of New Zealand had previously contended, namely, that the legislation of the Council should not be operative in, or in respect to, any Colony without the express consent in each case of the Legislature of such Colony. The Government of New Zealand had proposed that the legislation of the Federal Council should in each case be subsequently adopted by the Legislature of a Colony before it could become operative therein, while the Government of New South Wales desired that the Council should not proceed to deal with many subjects unless the Legislatures of all the Colonies represented in the Council had previously concurred in referring those matters to it.

6. I could not, as I have explained, adopt the amendments proposed on the part of New South Wales; but believing as I do that it is of the greatest importance to Imperial as well as Colonial interests that the Federal Council should have the cordial and active co-operation of both New South Wales and New Zealand, I sincerely trust that the Governments of those Colonies will, after further examination of the question, be satisfied that there is no practical impediment in the way of their taking part in the Council.

7. The Federal Council will be of no less value as a deliberative than as a legislative body. Referring to the first of the subjects specified in section 15 of the Act, it is, I think, agreed that at no previous time have the interests of Great Britain and her Colonies in the Pacific been of greater or of more pressing importance than at this moment; and, as the Colonies have strongly urged, those interests cannot fail to be permanently affected by the policy and action of the present time. It must be probable that the consideration of the relations of this country and the Colonies with the islands of the Pacific will be among the first subjects to which the Council, when constituted, will address itself. Her Majesty's Government would of course give their best attention to the separate recommendations of New Zealand or New South Wales on such a subject; but it is obvious, as my predecessor insisted with much force, that if the Colonies, not having consulted and acted together, do not unite in their recommendations, the power of Her Majesty's Government to advance British interests must be greatly diminished.

8. There appears, however, to be no reason why any Colony should apprehend that it would imperil to any material extent the independent action of its Legislature by consenting to be represented in the Federal Council. It is to be anticipated that there will be cases in which the subject of legislation or discussion in the Council may be of importance to some only of the Colonies; as, for instance, if the matter should be one concerning those Colonies only which have territory within the tropics, or one concerning those Colonies only which are conterminous on the mainland of Australia. In such cases a Colony not interested in, or objecting to, such discussion could direct its representatives to take no part in it; or if the legislation adopted at the instance of some Colonies should be inapplicable or objectionable to others, a provision could be enacted in the Act of Council indicating that it applies only to certain specified Colonies. And the Governor could be instructed under the 17th section of the Federal Council of Australasia Act 1885 not to assent to any Act of Council to which the representatives of any Colony or Colonies had formally objected, unless it contains such a provision.

9. While, therefore, I should be unwilling to press any Colony to join the Council unless and until it is satisfied that this course will be advantageous, I trust that it may be found practicable to arrange for the representation therein of New South Wales and New Zealand; and I will only add that I have had much satisfaction in assisting to pass a measure which, although in its present shape it is tentative and capable of improvement and development, may, if judiciously used, be of much value to the Australasian Colonies, and to British interests generally.

I have the honour to be,
Sir,

Your most obedient humble servant,

FRED. STANLEY.

Governor Sir Henry Loch, K.C.B.,
&c., &c., &c.