

PAPERS

RELATIVE TO

A PROPOSED CONFERENCE

BETWEEN

THE GOVERNMENTS OF NEW ZEALAND AND  
AUSTRALIA.

*(In continuation of Papers presented on 31st August, 1869.)*

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PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF  
HIS EXCELLENCY.

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WELLINGTON.

—  
1870.



FURTHER PAPERS RELATIVE TO A CONFERENCE BETWEEN THE GOVERNMENTS  
OF NEW ZEALAND AND AUSTRALIA.

No. 1.

The Hon. J. ROBERTSON to the Hon. W. GISBORNE.  
Colonial Secretary's Office,

(No. 192.)  
SIR,—

Sydney, New South Wales, 27th September, 1869.

With reference to correspondence respecting the Intercolonial Conference proposed to be held at Sydney during the coming month, I have now the honor to request that you will have the goodness to state definitively whether it is the intention of your Government to send delegates to such Conference; and, if so, that you will favour me with the names of the gentlemen whom you propose to depute in that capacity.

2. I have the honor, also, to suggest that the 26th proximo be appointed as the first day of meeting.

The Hon. the Colonial Secretary, New Zealand.

I have, &c.,  
JOHN ROBERTSON.

No. 2.

The Hon. W. GISBORNE to the Hon. J. ROBERTSON.  
Colonial Secretary's Office,

(No. 153.)  
SIR,—

Wellington, N.Z., 18th October, 1869.

I have the honor to acknowledge the receipt of your letter No. 192, of the 27th ultimo, respecting the Intercolonial Conference to be held at Sydney. That letter only reached me to-day, and a telegram from you to a similar effect was only received four days ago.

It is the intention of this Government to send delegates to that conference, and the gentlemen proposed to be sent are—the Hon. Julius Vogel, Colonial Treasurer, and Dr. Charles Knight, Auditor-General. They will arrange for their departure as early as practicable, but as they will necessarily have to go *via* Melbourne, and as the day (26th instant) definitively fixed for the Conference was so lately known here, they will probably not be able to reach Sydney for a week or ten days after that date.

The Hon. the Colonial Secretary, Sydney, N.S.W.

I have, &c.,  
W. GISBORNE.

No. 3.

The Hon. W. GISBORNE to the Hon. J. ROBERTSON.  
Colonial Secretary's Office,

(No. 158.)  
SIR,—

Wellington, 22nd October, 1869.

Adverting to my letter No. 153, of the 18th instant,\* I have the honor to state that the Hon. Julius Vogel, Colonial Treasurer, and Member of the Executive Council of New Zealand, and Dr. Charles Knight, Auditor-General, proceed to-morrow *via* Melbourne to Sydney as Delegates of the New Zealand Government at the Conference.

Mr. Seed, Inspector and Secretary of Customs, accompanies them with a view to giving them such information as they may require on Customs and Commercial matters connected with this Colony.

I shall feel obliged if you will enable the Delegates and Mr. Seed to have access to the Government Departments in Sydney, to obtain such information in connection with the Public Service as may prove useful in this Colony.

The Hon. the Colonial Secretary, New South Wales.

I have, &c.,  
W. GISBORNE.

No. 4.

The Hon. J. VOGEL and Dr. KNIGHT to the Hon. the CHIEF SECRETARY, Melbourne.

SIR,—

Melbourne, 10th November, 1869.

In reference to the interview on the 3rd instant, we have the honor to forward for your information a Memorandum setting forth briefly the subjects which it is proposed to bring under the consideration of the Intercolonial Conference.

We have, &c.,  
J. VOGEL,  
CHARLES KNIGHT.

The Hon. the Chief Secretary, Melbourne.

Enclosure in No. 4.

MEMORANDUM by the Hon. J. VOGEL and Dr. KNIGHT.  
*Intercolonial Free Trade.*

THERE should be no reason why the Colonies should be prevented from entering into arrangements for the interchange, duty free, of various articles produced or manufactured within their limits. For a long while the Canadian Parliament has passed Acts authorizing the Governor in Council to remit the

\* Similar letter sent to the Hon. Chief Secretary, Victoria.

duties on articles the growth, production, and manufacture of other British American Colonies, also to do the same with respect to certain goods from the United States. The first is a case precisely analogous to the proposal to allow the Australasian group of Colonies to make similar provision for mutual interchange; the second points to the feasibility of the original purpose of the Conference.

*The making an arrangement with the United States for the free admission of Wool the production of the Australasian Colonies.*

It is not necessary to point out the advantages to the Colonies which would arise from such an arrangement. It would equally suit the United States, the manufactories of which frequently languish on account of the difficulty of obtaining suitable wool. A reciprocity treaty is now being arranged between America and Canada. Why should not Australia participate, or have power to make one on her own account? To show that Canada's right to enter into reciprocal arrangements has been recognized, it may be mentioned that when at the instance of the United States the former reciprocity treaty with Canada came to an end, delegates from the British American Colonies, at the instance of the Imperial Government, and in some cases with the aid of one of Her Majesty's vessels, visited various countries, British and foreign, for the purpose of ascertaining what, if any, reciprocal arrangements for the benefit of trade might be made to replace the loss of trade which it was anticipated would follow the termination of the treaty with the States. Probably the Australasian Colonies might from time to time find it beneficial to enter into reciprocal arrangements with other countries, such for instance as the South American States, California, New Caledonia, and other South Sea Islands, and India, as also with some of the older countries. At any rate, the Colonies should not have less power in the matter than Canada has hitherto possessed, and it is believed at present possesses.

*Ocean Postal Services.*

It is impossible to surmise how far the Colonies are prepared to come to an understanding on this question. New Zealand is very anxious to see a communication with California established.

*Telegraphic Communication with Europe.*

This subject demands immediate attention. The Colonies, whatever is done, should act jointly. The telegraph lines in the Colonies are in the hands of the respective Governments. The Imperial country has lately seen the wisdom of following the same course. Why should the line to connect Great Britain, India, and Australasia, be permitted to pass into private hands? Essentially the line is one concerning which it is unwise to grant a monopoly. It is undesirable that the cost of inter-communication should be taxed with the profits of a private undertaking. Why should not the Imperial Country, India, and the Australasian Colonies, jointly construct the line. The cost to them would be comparatively trifling. Great Britain could raise the money, and an annual charge might be made exclusive or inclusive of a redemption or sinking fund. The arrangement would not be more difficult in its details than the settlement of the annual subsidy to the Suez line.

*Telegraphic Union between the Colonies.*

Experience shows that a uniform rate of telegraphic charge is highly advantageous. If the Colonies would agree to a uniform rate, it would be easy and desirable and profitable for them to determine that telegrams from any one Colony should run through the others without extra cost. A similar arrangement prevails in respect to letters, although the carriage of letters from the coast inland is really a costly matter. But the transmission of a message costs comparatively nothing. A union such as is suggested would infallibly enormously increase the telegraphic business in all the Colonies.

*Investment of English Trust Funds in Colonial Securities.*

When trustees act under instruments which do not expressly exclude or include certain securities, their discretion as to investment is still limited. They may invest in securities guaranteed by Parliament, in securities authorized by general order of Court of Chancery, in Parliamentary stocks, or public funds, or Government securities. Recently authority has been given to invest in Indian un-guaranteed stocks. Proposed that representations should be made to enable trustees at their option to invest in Colonial securities. There are immense amounts of trust funds at home awaiting investment. The permission would raise the value of Colonial securities, and in numerous cases be highly advantageous to trustees and the interests they represent.

*Admission of Barristers and Solicitors of any Colony to practice in other Colonies; an Australian Court of Appeal, and Comity of Laws.*

Subjects worthy of discussion; though, for the present, probably little can be done concerning them.

*Apprehension of Offenders.*

Immediate measures are required to facilitate the apprehension of offenders when they pass from the Colony which is the scene of their offences to some other Colony. In connection with this subject, it is worthy of consideration whether it might not be well for the Colonies jointly to maintain a small detective force, say of from ten to twelve, to keep a watch on the criminal population floating from Colony to Colony, and to afford information concerning the same.

*Uniform Statistics.*

A great deal of the usefulness of the elaborate statistics of the various Colonies is impaired through the want of uniformity as to the mode of their preparation. Proposed that a uniform system be adopted.

*Relief of Distressed Seamen.*

A subject arising from a Circular Despatch from the Secretary of State for the Colonies.

*Lighthouse on Snares, and Depôt on Auckland Islands.*

Both said to be necessary for protection and aid of shipping. Proposed that the Colonies come to some understanding as to the expense.

*Prohibition of Arms and Ammunition to South Sea Islands.*

There is reason to think that arms and ammunition exported from the different Colonies to South Sea Islands find their way to New Zealand. In the interest of civilized humanity, even though in some quarters inconvenience be the result, a check should be interposed to indiscriminate exportation.

*Naval Defence.*

A suggestion of Mr. Fitzherbert's (late Colonial Treasurer of New Zealand) that some understanding should be come to between the Mother Country and the Colonies for the maintenance, at joint expense, of a naval force.

The general subject of the relations between the Mother Country and the Colonies will crop up in the consideration of many of the questions already referred to; but it would be well to make it also the subject of special and separate discussion.

Melbourne, 10th November, 1869.

JULIUS VOGEL,  
CHARLES KNIGHT.

## No. 5.

The Hon. J. MACPHERSON to Hon. J. VOGEL and Dr. KNIGHT.

(No. 3172.)

Chief Secretary's Office,

GENTLEMEN,—

Melbourne, 16th November, 1869.

I have the honor to acknowledge the receipt of your Memorandum, setting forth the subjects it is proposed to discuss at the Intercolonial Conference.

After due consideration, I have the honor to inform you the Cabinet does not think it desirable to send a delegate to the Conference, as it is doubtful whether any advantage could result from it. But we shall be happy to join in any correspondence regarding matters of interest to the Colonies generally.

Messrs. Julius Vogel and Charles Knight.

I have, &c.,

JOHN MACPHERSON.

## No. 6.

The Hon. J. VOGEL and Dr. KNIGHT to the Hon. J. ROBERTSON.

SIR,—

Melbourne, 18th November, 1869.

We have delayed replying to your telegram, in which you invited us to proceed to Sydney, as we considered that it was desirable to again request the Government of Victoria to take a part in the Conference. They delayed coming to a decision for nearly a fortnight. It was only two days since that decision was announced to us in a letter, copy of which we attach. We also send you copy of Memorandum with which we furnished the Government here. You will observe that we suggested some new subjects, but which we venture to think you will consider important.

We propose to proceed to Sydney next week, say after the arrival of the English Mail, if it will be convenient to you to confer with us then. We believe, concerning several of the subjects set forth in the Memorandum, New South Wales and New Zealand may take joint action with great advantage, and we shall be glad to cement the friendly relations between the two Colonies. You may think it desirable to invite the attendance of representatives from Queensland, Tasmania, and South Australia, or any one or more of them; but we would rather not express an opinion on the point, leaving it entirely to your discretion.

The Hon. the Colonial Secretary, &c., Sydney.

We have, &c.,

JULIUS VOGEL,  
CHARLES KNIGHT.

NOTE.—Various memoranda were agreed to subsequently, with the Colonial Secretaries of New South Wales and Queensland. Subject to the approval of the respective Governments, they were to be submitted to the respective Legislatures. The Queensland Government subsequently dissented; but correspondence on the subject is still proceeding between the Governments of New South Wales and Queensland. In the meanwhile, in the absence of Queensland's approval, it would be contrary to the understanding arrived at by the delegates to publish the documents.

## No. 7.

The Hon. the COLONIAL SECRETARY, Tasmania, to the Hon. W. GIBBORNE.

(Circular D. 39.)

Colonial Secretary's Office,

SIR,—

Tasmania, 18th February, 1870.

It will be in the recollection of the Government of New Zealand, that towards the close of 1868, Mr. Stafford, then Colonial Secretary of the Colony, in a Circular Despatch to the Government of the

Australian Colonies, under date 29th October, 1868, proposed that a Conference of Delegates should be held in Sydney for the purpose of considering the Colonial relations of the Australasian Colonies with each other, and with the United States and other foreign countries, as affected by treaties made by Great Britain with foreign Powers, and to consider and advise upon other cognate subjects of common interest to the collective group of Colonies.

The proposal met with ready acquiescence from the Governments of New South Wales, Tasmania, Victoria, South Australia, and Queensland.

The Government of Queensland suggested that, in addition to the principal subject of deliberation indicated by Mr. Stafford, the Delegates should be invited to confer and advise upon the questions of—

- (a.) The admission into other countries duty free, or upon such terms as may be agreed upon, of the products of Australia and New Zealand.
- (b.) The free interchange of products between New Zealand and the Australian Colonies respectively.
- (c.) The expediency of establishing a uniform Tariff for the Colonies, and also Immigration, Ocean Steam Postal Service, Telegraph extension, Lighthouses, Legal comity, and an Australian Court of Appeal.

To these subjects the Government of South Australia proposed to add the question of the reduction of Imperial Troops in Australia.

The Government of New South Wales, in reply to Mr. Stafford's circular, invited the Governments of the other Australian Colonies to express their opinion upon the advisability of adopting the suggestion for a Conference of Delegates to consider—

1. The introduction of Free Trade in Intercolonial products.
2. A Uniform Tariff; and
3. A Union of Customs.

The same Government subsequently intimated its intention to propose for discussion at the Conference, the question of Telegraphic communication with Europe *via* India and Java; and further suggested that the question of the Naval Defence of the Australasian Colonies, which formed the subject of Earl Granville's Circular Despatch of the 26th January, 1869, should be referred for discussion to the Conference. And the Government of New Zealand intimated its intention to bring forward for discussion at the Intercolonial Conference, the question of paying direct, without the intervention of the Board of Trade, the expenses incurred in one Colony in the relief of distressed seamen belonging to another Colony, as suggested in a Despatch from the Secretary of State, Circular No. 2, of 1st May, 1869.

Those preliminary arrangements led to no practical results; and the Government of Tasmania has observed with sincere regret that, notwithstanding the general recognition of the Australian Governments of the gravity of the questions suggested for their joint deliberations in 1868, the year 1869 has been allowed to close without witnessing the assembly of an Intercolonial Conference, a project which seemed to promise a sensible enhancement of the commercial prosperity and political importance of the Australasian Colonies. Impressed with these views, the Government of Tasmania desires to renew the suggestion of combined action on the large and important question of Intercolonial Commercial relations; and I have now the honor to propose, that a Conference of accredited Representatives of the several Governments of Australia and New Zealand be held in Melbourne, in the month of May next, to consider and decide upon the advisability of establishing an Australian Commercial Federation, on the basis of a Customs Union with a common Tariff, and a free interchange of products and commodities.

Of all the questions hitherto proposed for the consideration of an Australasian Conference, that of a Customs Union with Intercolonial Free Trade is unquestionably the most important, and the most likely at this moment to combine the suffrages of the Governments and Legislatures of the several Colonies.

I am inclined to think it is not desirable to complicate the discussion or jeopardize the settlement of that question, by formally referring to the Conference now proposed other subjects of common interest, on which, from whatever causes, a considerable difference of opinion is known to prevail, or would probably be provoked. At the same time, the various questions of common Australasian concern that were suggested for discussion at the Conference projected by Mr. Stafford still demand the joint deliberation of the Governments of Australia and New Zealand, and the Conference now proposed might be thought a favourable opportunity for dealing with them. It would therefore be well that these questions should not be formally excluded from consideration by the Delegates, who, being Members of the respective Governments represented, would be fully empowered to confer and advise upon all such matters without any special authorization. But the question of Customs Union should, I think, be deemed the first and principal object of the Conference.

It will scarcely be denied that the commercial and producing interests of the British Australasian Colonies demand the recognition of the collective group by the Imperial Government as a geographical unit for all purposes of Customs revenue.

That recognition would at once free the Colonies from the restrictions imposed upon their fiscal legislation by the existing Imperial Acts on differential duties, and would also permit the establishment of a system of mutual interchange amongst themselves, free of all duties of Customs, on their respective natural products, and on all manufactured commodities imported into any of them from Great Britain or foreign countries.

I deem it superfluous to enlarge upon the beneficial effect such a system would be likely to produce upon the foreign commerce and domestic industry of the federated Colonies, or to point out how seriously and inconveniently those advantageous results would be inevitably lessened by any combination that failed to comprise the whole group.

The Despatch addressed by the Duke of Buckingham to the Governor of New South Wales, under date 7th January, 1868, announces that "Her Majesty's Government would gladly aid in the establishment of a Customs Union, comprising all the adjacent Australian Colonies, and providing for an equitable division of the Customs duties, and for a uniform Tariff as between Australia and other countries or places."

More recently Lord Granville's Circular Despatch of the 8th September, 1869, conveys the assurance that Her Majesty's Government "have every desire to encourage the combined action of any of the Colonies in furtherance of their wishes and interests."

There would, consequently, seem to be no reason to apprehend that any difficulty would be experienced in securing the sanction of Imperial legislation to measures designed to unite these Colonies in a Commercial Federation.

I trust that the Governments of Australia and New Zealand will be willing to adopt this suggestion of a Conference for the special object of bringing about Commercial Federation and Intercolonial Free Trade.

At such a Conference the Government of Tasmania will be prepared to submit a proposal, that the revenue derived from the Customs duties on a uniform tariff throughout the Union, should be paid into a common fund or Federal Exchequer, to be periodically distributed amongst the Colonies rateably in proportion to the population of each as ascertained by the last, or next, and each succeeding decennial census, or by such other means as the Conference may decide upon.

Melbourne, from its central position, seems the most suitable locality for the Conference; and I beg to name the 2nd of May next as the most convenient period for the first meeting of the Delegates, as during that month no Australian Legislature is likely to be in Session.

I beg to invite your serious attention to the subject-matter of this communication, and to request the favour of an early reply.

The Hon. the Colonial Secretary, New Zealand.

I have &c.,

JAMES MILNE WILSON.

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No. 8.

The Hon. W. GISBORNE to the Hon. the COLONIAL SECRETARY, Tasmania.

(No. 70-610.)

Colonial Secretary's Office,

Wellington, 28th March, 1870.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 18th ultimo, No. D. 39, in which you recommend that a Conference of Delegates of the Australasian Colonies should be held in Melbourne in May next, to consider various subjects, but especially the question of a Customs Union.

You describe the steps which were taken to convene a conference last year, but you do not carry the narrative to its conclusion.

Notwithstanding that the arrangements for the Conference were made several months in advance, the Delegates from New Zealand found, on their arrival in Australia to attend the expected Conference, that some of the Colonies were not prepared to proceed with it. The Government of Victoria were understood to be of opinion that conferences were not a desirable mode of carrying on intercolonial negotiations,—that there was the risk of the Cabinets of the various Colonies not accepting the conclusions arrived at,—and that more could be effected by correspondence.

The New Zealand Delegates proceeded to New South Wales, the Government of which were anxious to confer with them. There the representatives of New South Wales, New Zealand, and Queensland conferred, and, amongst other results, there was the Memorandum, copy of which I attach, and which I do not doubt that the Government of New South Wales have already communicated to you officially. You will observe that it deals with the subject of setting at rest the doubts which exist as to the power of the Colonies to enter into commercial arrangements with themselves and other countries. The term "doubts" is advisedly employed, because it cannot be maintained, as has been alleged, that treaty obligations stand in the way of the Australian Colonies exercising such powers, seeing that Canada, for a long while, has done so. The Memorandum provides for the Colonies jointly and severally taking steps to give effect to its objects, and it is within their power to do so.

Your proposal for a complete Customs Union goes much further, but I do not agree with you that the Colonies are prepared to adopt it. Your argument in effect is, that it is so desirable that the Colonies should interchange their productions duty free, that it is their interest to submit to a common tariff,—a course the Imperial Government would only be too glad to ratify by law. I am not prepared to say that, for the sake of the advantages of a complete and intimate federation of the Colonies, it might not be expedient for them to consent to the disadvantage, necessarily incident to a common tariff, of being unable to vary their tariffs from time to time in accordance with their various wants and resources. But I cannot concur that it is desirable to seek out and secure the more objectionable condition of federation without, at the same time, obtaining its redeeming benefits. In the absence of a federal Parliament, a common tariff would practically be irreversible, but, as a matter of fact, no Colony has yet found an unalterable tariff advisable.

The fiscal requirements of the various Colonies differ so widely that it would be impossible to fix on a common tariff which would not yield either more than some or less than other Colonies require. If the maximum were to be selected, such a tariff could not be regarded as a free-trade one, so far as it affected the Colonies, for which it would raise more revenue than they required. Those Colonies would in such a tariff experience all the evils of a protective tariff without—what Protectionists claim as an advantage—the power of adapting it to varying circumstances as they arise. On the other hand, if a minimum tariff were selected, the necessity of resorting to other taxation would be forced on some of the Colonies to compensate for their losses in their Customs revenue.

A Customs Union would to a great extent paralyze the external commerce of all the Colonies except the one fortunate enough to have the largest trade and commerce, and able to afford to keep the largest stocks. The other Colonies would draw their supplies from that Colony, and would lose the advantages of direct foreign shipments and direct immigration. Even the benefit to the favoured Colony, which for the purpose of my argument I will suppose to be Victoria, would be doubtful; at any rate, the effect would be a reversal of the policy which has guided that Colony during the last few years,—for merchants would secure advantages which would injuriously react on producers and manufacturers. Importers would be induced to flood that particular market with goods at such a cheap rate as to crush

local production. In short, a Customs Union would tend towards leaving the Colonies, as at present, producers and exporters of less than half a dozen leading articles, and exchanging those in their raw state for the manufactures of other countries.

I feel far from certain that Victoria, notwithstanding the tempting (in other respects) nature of the proposal, would be willing to adopt it. I may observe that the plan has been already discussed with approbation by the principal Victorian importers, of its benefit to whom there can be no question.

At all events this Government are of opinion that such a proposal would not be suitable for this Colony. They would be prepared to recommend the New Zealand Legislature to join those of the neighbouring Colonies in asking for power, and if necessary in insisting on obtaining it, to make reciprocal tariff arrangements with other colonies and countries; and the Government are confident that such a power, when granted, would be fettered by no narrow selfish considerations, but be exercised with comprehensiveness and liberality. But the Government are not prepared to recommend the Legislature to abandon its right to deal with such matters itself, to renounce all power over its own tariff, and to be constrained by Imperial legislation into a commercial not a federal union, from which, if proved unsuitable, it would have great difficulty in freeing itself.

The Hon. the Colonial Secretary, Tasmania.

I have, &c.,  
W. GISBORNE.

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### Enclosure in No. 8.

#### MEMORANDUM.

AGREED between the Governments of New South Wales, New Zealand, and Queensland—

1st, To address an earnest representation to the Secretary of State for the Colonies, respecting the disadvantage under which the Australasian Colonies labour, in regard to the doubts which exist as to their power to make mutual arrangements for the interchange, duty free, of their several products and manufactures—as also in respect of the doubts which exist as to their powers to enter into Conventions with foreign countries; to point out that Canada for a lengthened period has been placed on a more favourable footing; to urge that all doubts as to the rights to exercise such powers be removed; and that, in entering into arrangements with foreign countries, the Imperial Government should aid the Colonies. That such aid should be immediately granted in respect to endeavouring to negotiate with the United States for the introduction into that country, duty free, of wool, the product of the Australasian Colonies.

2nd, That direct representations be made to the United States with the object of inducing that country to admit wool, the product of the Australasian Colonies, duty free.

3rd, That a representation be made to the Imperial Government urging the desirability of legislative provision to enable trustees to invest in the Government securities of the Australasian Colonies.

4th, That the Crown Law Officers of the Colonies should be moved to enter into correspondence with the view of determining the means best calculated to facilitate the apprehension of offenders when they pass from one Colony to another.

5th, That copies of this agreement be transmitted to the Colonies of Victoria, South Australia, and Tasmania, in the hope that they will aid in promoting the several objects it embraces.

6th, It is agreed by the Honorable John Robertson of New South Wales, the Honorable Julius Vogel of New Zealand, and the Honorable Charles Lilley of Queensland, that the views embodied in this Memorandum shall be submitted to their respective Cabinets for approval.

JOHN ROBERTSON,  
JULIUS VOGEL,  
CHARLES KNIGHT,

For Charles Lilley, by his authority, JOHN ROBERTSON.

Sydney, 6th January, 1870.

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### No. 9.

The Hon. J. T. BAGOT to the Hon. W. GISBORNE.

(No. 363-70.)  
SIR,—

Chief Secretary's Office,  
Adelaide, 20th April, 1870.

I have the honor, by desire of His Excellency the Officer Administering the Government, to acknowledge the receipt of your letter of the 31st ultimo, enclosing copy of a communication addressed by you to the Government of Tasmania, in reply to a circular on the subject of a proposed Inter-colonial Conference.

I have, &c.,  
JOHN T. BAGOT,  
Chief Secretary.

-The Hon. the Colonial Secretary, New Zealand.

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### No. 10.

The Hon. the COLONIAL SECRETARY, Tasmania, to the Hon. W. GISBORNE.

SIR,—

Colonial Secretary's Office, Tasmania, 9th May, 1870.

I have the honor to acknowledge the receipt of your communication under date the 28th March, in reply to my Circular Letter of the 18th February, proposing an Intercolonial Conference to be held in Melbourne in May, to consider the question of an Australasian Customs Union.

I regret to learn from your letter that the Government of New Zealand is indisposed to acquiesce in the advisability of a Common Australasian Tariff, and is "of opinion that such a proposal is not suitable for that Colony."



In the face of the strongly expressed opinions enunciated in your letter, adversely to the object contemplated by the proposed Conference, I see nothing to be gained by attempting to combat the views on this point of the Government of New Zealand, beyond recording my own belief that you have overstated the difficulties likely to obstruct the establishment of such a union between the Continental Colonies and Tasmania; and that you have formed an erroneous estimate of the probable effects of such a fiscal policy upon the commercial and producing interests of the Federated Group.

In acknowledging the receipt of the Memorandum attached to your letter, embodying the views of the Governments of New South Wales, New Zealand, and Queensland, on several matters affecting the relations of the Colonies with the Mother Country, with foreign States, and with each other, it is due to the Government of Tasmania that I should state that the Memorandum in question has never been officially communicated to me, and that I read it for the first time as an enclosure to your letter.

The topics embraced in that Memorandum might be appropriately discussed at the Conference I have recommended. But I am inclined to think that insuperable obstacles would be found to stand in the way of the attainment of the object aimed at in the Resolution which suggests collective action in the direction of Intercolonial Differential Duties, and Reciprocity Treaties with foreign States.

The recent abrogation by the United States Government of the Reciprocity Treaty with Canada, accompanied by the declaration in the President's Message that its continuance would prove commercially beneficial to no State or citizen of the Union, leaves little room for the anticipation that Australasian wool would be admitted duty free into the United States; while there is still less reason to assume that the British Government would undertake to negotiate a Reciprocity Treaty with any foreign Government, either as a measure of Imperial finance or in the interests of any particular Colony or group of Colonies.

As regards the power of the Colonies "to make mutual arrangements for the interchange, duty free, of their several products and manufactures," I may be permitted to remind you that this Colony has already sought to exercise that power, by passing an "Intercolonial Free Trade Bill," which failed to receive the Royal assent.

Since then, however, two successive Secretaries of State, as quoted in my Circular Letter proposing the Conference, have signified the readiness of Her Majesty's Government to acquiesce in the collective action of the Colonies, in the direction of a Customs Union or otherwise, "in furtherance of their wishes and interests." I have therefore aimed in my proposal at the accomplishment of an object which is, I believe, attainable, and likely to prove largely beneficial to the Colonies embraced in its scope.

I have now to inform you that the meeting of the Conference stands fixed for the 20th June; and I entertain a confident expectation that the Representatives of this Government will meet at that day, in Melbourne delegates from all the Continental Colonies, fully empowered, and I trust prepared, to adopt the proposals I shall then have the honor to submit for their collective consideration.

I have, &c.,

J. M. WILSON.

The Hon. the Colonial Secretary, New Zealand.

#### No. 11.

The Hon. W. GISBORNE to the Hon. COLONIAL SECRETARY, Tasmania.

(No. 1,468.)

Colonial Secretary's Office,

SIR,—

Wellington, 9th June, 1870.

I have the honor to acknowledge the receipt of your communication of the 9th ultimo, on the subject of the Intercolonial Conference.

Although the Government cannot agree that it is desirable for New Zealand to enter into the proposed Customs Union, it is possible the other Colonies concerned may consider that the restraints under which such a Union would place them would be compensated by some corresponding advantage, and the Government will watch the proceedings with great interest.

The Government cannot agree that the Colonies should submit to being prevented from entering into convenient commercial relations with each other. It cannot be said that the difficulty in respect to treaties is insuperable, seeing that the British-American Colonies did a long time before the creation of the Dominion enter into reciprocal arrangements.

It is the intention of the Government of New Zealand to submit to the Assembly a proposal to authorize the payment of bonuses on Intercolonial imports. By this plan the technical difficulty may be surmounted. I enclose you a printed copy of the opinion of the Attorney-General of this Colony on the subject of Intercolonial Reciprocity.

I have, &c.,

W. GISBORNE.

The Hon. the Colonial Secretary, Tasmania.

#### Enclosure in No. 11.

##### OPINION OF THE ATTORNEY-GENERAL ON COLONIAL RECIPROCITY.

By certain provisions of the Legislatures of Canada and other British North American Colonies, certain specified goods, as grain, salted meats, butter, cheese, poultry, and some others, may, if of the growth or produce of any other of the British North American Provinces, be imported into the legislating Province free of duty; and any other articles besides those specially mentioned may, if of such growth or produce, be exempted, by Order of the Governor in Council, from payment of Customs duty. (See Statutes of Canada, 1859, chap. 17, sec. 3; also, Statutes of Canada, 1866, chap. 6, secs. 5 and 6; also, Revised Statutes of Nova Scotia, sec. 8, chap. 8 part 1.) This has been the legislation of British North American Colonies.

In Australasia, however, there does not appear on the Statute Books of the several Colonies any Acts permitting such reciprocity; and the question naturally suggests itself, how is it that this is so? Bearing in mind the differences in climate, soil, and other natural advantages which exist, rendering, as such differences do, an interchange of products certain unless prevented by injudicious legislation; and further, the facts that these districts which now form the several Colonies of New

South Wales, Victoria, Queensland, and New Zealand, were not long since under one Government, and formed one Colony; and also, that by reason of the close proximity of these Colonies to one another, and from the fact that, each of these Colonies possessing gold fields of considerable extent, there is such an intercourse between, and a going to and fro of the populations, as to make them, if not one people, at least to give them in most matters an identity of interests;—bearing in mind these matters, the absence of reciprocity in commerce can only be accounted for by the existence of some unnatural obstruction. That unnatural obstruction is found in the Constitutions which the Imperial Parliament has imposed on the several Australian Colonies. In each of them is found the same prohibition—the prohibition having its immediate origin in the 31st section of the 59th of 13th and 14th Victoria.

An attempt on the part of Tasmania to enter into an arrangement with others of the Australasian Colonies, for the importation of products and goods on terms of reciprocity, was stopped by the disallowance by the Imperial Government of the Bill passed by the Colonial Legislature authorizing such an arrangement. No doubt the Bill was invalid as being contrary to the 13th and 14th Victoria, c. 59, sec. 31, and would have been invalid even if not disallowed. The proper course for Tasmania and any other of the Australasian Colonies desiring to authorize the establishment of such reciprocity, is to procure the repeal of those provisions on the Imperial Statute Book which prevent the Colonial Legislatures from passing Acts giving the necessary authority.

It will not be sufficient to procure this repeal as to New Zealand alone, should it be wished that such reciprocity should be established here with regard to any other of the Australasian Colonies; but each of the Australasian Colonies with which it is proposed that New Zealand should establish such reciprocity must procure the repeal of the prohibition which prevents legislation by its Parliament.

In answer to any request made to the Imperial Parliament for such repeal, it may be said that the prohibition is created not only by provisions of the Imperial Statutes, but also by the treaties entered into by the Imperial Government with foreign countries, and that the provisions of such treaties cannot be disregarded or abrogated without the consent of each of those foreign countries with which the treaties have been made. But assuming that any treaty entered into by the Imperial Government is capable of such a construction as would prohibit one part of the British Dominions from entering into terms of reciprocity with another, how is it that such a construction does not apply to the British North American Colonies equally with the Australasian Colonies?

It is true that in the Imperial Statutes in force before the constitution of the Dominion, giving or regulating the constitution of the North American Colonies, there is not contained a prohibition similar to that which has been created by Imperial legislation with regard to the Australasian Colonies, but nevertheless there are the same treaties, and those treaties contain no reservation or exception of the North American Colonies.

It would appear, therefore, that if the Imperial Parliament should remove the express prohibition, the provisions of the treaties would present no obstacle. However, if from want of sufficient information on the subject the position of the North American Colonies with regard to Imperial Government treaties with foreign countries has not been correctly put; if there be some reservation or exception of the North American Colonies from the operation of foreign commercial treaties; then the same reasons which have induced the Imperial Government to stipulate for such exceptions equally bind it to procure the relaxation of these treaties, so far as they can be construed as applying to the Australasian Colonies.

But there are provisions in the Imperial Statute Book which have been passed for the purpose of declaring that goods, the produce of one part of the British Dominions, when imported into other parts of the British Dominions, shall not be treated as foreign. By some such provision for the purpose of enabling the Australasian Colonies to establish a system of reciprocity, each of these Colonies could for such purpose be declared to be so,—not to be separated or foreign to one another.

It may be observed that, in the Act constituting the Dominion of Canada, the Imperial Parliament, though providing that, subject to the provision of that Act, the Customs duties leviable in each Province shall continue leviable till altered by the Parliament of Canada, yet the same Act provides that articles the produce of any one Province shall, after the union, be admitted free into each of the other Colonies.

No doubt the provision is quite consistent, because all the Provinces, though each has a separate Legislature for some purposes, are formed into one country or dominion subject to a General Legislature.

It would be too great a labour to go through all or the principal of the Commercial Treaties now existing between foreign countries and the Imperial Government, for the purpose of ascertaining whether any of them are capable of receiving such a construction as to prevent the Australasian Colonies from following the example of the British North American Colonies, and establishing a system of reciprocity. It may be that, in some treaties, by a strict construction, provisions will be found which may appear to prohibit the establishment of such system.

It is submitted, however, that where, in a treaty with a foreign country, it is stipulated that no other duties shall be imposed on the importation into British territories of any articles, the growth, &c., of such foreign country, such stipulation does not apply to the importation from one Colony to another. The context shows that the word “foreign” must be construed in its proper sense of alien.

It is clear that the “most favoured nations” clauses do not apply as between one part of the British Dominions and another.

The 13th clause of the Belgium Treaty of 1862, though it would prevent reciprocity between the Colonies and Great Britain as against Belgium, does not, nor does any stipulation in the treaty, prevent reciprocity between any two British Colonies.

It is also submitted that where, as in the treaty with Italy, the words “other country” are used, and the word “foreign” is not expressed, the meaning is the same, “other country” meaning “other foreign country.”

Should the Imperial Government not be disposed to ask Parliament to repeal the prohibitory legislation referred to, it would be well that it should be asked to point out specifically what treaty stipulations there are existing which prevent the establishment of the proposed reciprocity.

This is more important with regard to New Zealand, since by the Constitution Act the only prohibition is against imposing restrictions, exemptions, &c., contrary to or at variance with treaties concluded by Her Majesty with any Foreign Power; while the provision in the Constitution Acts of Victoria and New South Wales is, that no new duty shall be imposed upon the importation of any article the produce of any particular “place,” which shall not equally be imposed upon the importation of articles imported from all other places.

However, inasmuch as it is with these Colonies that reciprocity is desired, any restriction on legislation by those Colonies acts as a restriction on New Zealand.