

## THE FEDERAL COUNCIL BILL.

Mr. Service has written a despatch to the Premier of New Zealand, in reply to the circular letter which Mr. Stout recently addressed to the Governments of the Australasian colonies in regard to the Federal Council Bill, suggesting that measures passed by the Federal Council shall not have effect in any colony until adopted by its Legislature. The publication of the despatch was withheld by Mr. Service until he ascertained that it had reached New Zealand. Copies have been forwarded to the Governments of Queensland, South Australia, and Tasmania. Last Friday we stated that Mr. Griffith, the Queensland Premier, in his reply to Mr. Stout, suggested that the Enabling Bill might be amended to meet his wishes. Mr. Griffith subsequently informed the New Zealand Premier that Mr. Service was strongly opposed to the proposed compromise, and then drew back from the negotiations that had been passing between New Zealand and Queensland. In the meantime the terms of the compromise were forwarded by cable to London by Mr. Stout. We append the full text of Mr. Service's despatch:—

Premier's Office, Melbourne,  
May 20, 1885.

Sir,—I have the honour to acknowledge the receipt on the 12th inst. of your letter of the 30th April conveying a copy of a memorandum adopted by your Government respecting the proposed Imperial Act for constituting an Australasian Federal Council. The memorandum enclosed appeals to the Australasian Governments to have inserted in the bill a provision that no legislation of the Federal Council shall have effect within any colony until the Legislature of that colony shall have approved of such legislation, and the ground of this request is that your Government supposes that the proposed powers of the Federal Council are inconsistent with the autonomous powers of the several local Legislatures.

2. I thank you for thus communicating your views in so clear and able a document as that now submitted. Bearing in mind, however, that you had not the advantage of hearing and participating in the discussions of the Convention which framed the bill, I could have wished that the step which you have now courteously taken of placing your views before the other Australasian Governments had been resorted to at an earlier stage, when you might have been open to weigh and consider such answers to your objections as might be submitted, and I shall be extremely glad if you are even now able to reconsider the matter, and possibly to modify the attitude taken by your representative in London towards the bill. It is in the hope that this may be the case that I now

tive in London towards the bill. It is in the hope that this may be the case that I now offer the following remarks:—

3. The objection taken, viz., that the bill would interfere with local autonomy in the several colonies, is one which, in the abstract, and if it could be shown to apply in any injurious way, I should be disposed to agree with. From the first I felt it important not to give to the Federal Council any powers with which the local Legislatures could not freely and safely entrust it; but I submit that the objection, though it appear formidable as a theoretical principle, is one which vanishes when the practical bearings of the matter are looked into. For the range of subjects on which the proposed council will have power to legislate is not unlimited. It is confined to—

1. The matters specifically defined in sub-clauses *a* to *g* of clause 15 of the bill; and
2. The other subjects mentioned or referred to in sub-clause *h*.

4. With regard to the former class, it is difficult to see how any local Legislature could feel that its functions were at all interfered with through any one of these subjects being dealt with by the Federal Council. Take, for instance—

(*a*) The relations of Australasia with the islands of the Pacific.

This is a subject not subtracted from the domain of local Legislatures, for it has never yet belonged to it; it is a new matter for the colonies, one which could not be satisfactorily legislated upon by individual colonies, and which therefore of itself seems to require a central body to deal with it.

5. The other matters enumerated, viz.:—

(*b*) Prevention of the influx of criminals;

(*c*) fisheries in Australasian waters beyond territorial limits; (*d*) the service of civil process of the courts of any colony within Her Majesty's possessions in Australasia out of the jurisdiction of the colony in which it is issued; (*e*) the enforcement of judgments of courts of law of any colony beyond the limits of the colony; (*f*) the enforcement of criminal process beyond the limits of the colony in which it is issued, and the extradition of offenders (including deserters of wives and children, and deserters from the Imperial or colonial naval or military forces); (*g*) the custody of offenders on board of ships belonging to Her Majesty's colonial Governments, beyond territorial limits—

are all of them affairs of the external relations of the colonies, such as no Legislature of any one colony could deal with.

6. As regards the other class of subjects, none of them could come before the Council except on the request of the Legislatures of at least two colonies.

I need only point out the immense safeguard thus afforded. There is the deliberate process of any such request through two Legislative Chambers of at least two colonies; there is scrutiny at various stages in each

Legislative Chambers of all the Colonies, there is scrutiny at various stages in each Chamber; there is the force of public opinion which may be brought to bear at any one of these stages; and I think it must be apparent that ample security is thus afforded that no subject could be remitted to the Federal Council on which there would be any danger of legislation unacceptable to individual colonies. I apprehend, indeed, that those subjects only would be dealt with by the Federal Council on which there was a matured public opinion, and a felt need of federal action.

7. But, further, while your proposal is that no act of the Federal Council shall have effect until adopted by the local Legislatures, there actually is a provision in the bill which, if not identical with the one you propose, appears to me amply conservative in character, namely, that in the case of the subjects which under sub-clause A are referable to the Council by the Legislatures of two colonies, the acts of the Council passed thereupon shall extend only to the colonies by whose Legislatures the matter shall have been so referred to it, and to such other colonies as may afterwards adopt the same.

8. Thus, then, in the case of subjects referred to the Council by two colonies, the sequential legislation would only be binding upon those two; and, as regards the others, their position would be just exactly that which is proposed by your memorandum.

It seems to me that in this respect the bill (so to say) exercises a wise discrimination; that is, that legislation which has only been asked for by two colonies should only bind those two, but that it should be optional with the other colonies to adopt it or not.

9. The proposal of your memorandum, however, is more sweeping; it is that there should be no finality in any of the acts of the Council. This would deprive the Council at once of all legislative power and character; it would reduce it to a mere intercolonial conference or a drafting committee. I cannot regard this otherwise than as a retrograde step.

10. Our past experience of intercolonial conferences suffices to show their inconclusiveness. It was the very fact of their impotence and ineffectiveness that gave rise to the desire for some central or federal body with power to act and legislate; but with a council shorn of all legislative power we should be just where we were before. Suppose, for instance, that the Council have met and deliberated; if every item of their decisions has to be submitted to the various Legislatures for re-discussion and consideration, when can any general law be reasonably expected to be passed? How many of the local Legislatures may not be in recess? or how many colonies may not be undergoing a general election or a Ministerial crisis? And, with all the local Legislatures exercising their right of amendment, can it be expected that a law of general application would ever emerge from such a process? So remote, indeed, appears to me the prospect of any practical result from a body so crippled and

indeed, appears to me the prospect of any practical result from a body so crippled and restricted, that I quite fail to see wherein its utility would lie.

11. But, moreover, when it is recollected that the Council is itself to consist of representatives of the several Australasian colonies, I conceive that the colonies would be almost stultifying themselves if they adopted such a restriction on the powers of the Council as that proposed.

12. The idea of the Council is that it would consist necessarily of the most experienced and distinguished representative men in the colonies. Is it to be supposed that such men would seek, would indeed accept a seat at it, if, instead of the body proposed by the Convention, it were degraded into a mere drafting council to prepare measures for enactment by the several colonial Legislatures?

13. It is because (as before mentioned) you were not present at the detailed and elaborate discussions of the Convention that I venture to lay before you these remarks, and to ask your kind reconsideration of the position.

It will be a matter of profound satisfaction in Victoria, and I think in all those colonies which have accepted the Federal Council, if the important colony of New Zealand takes its place amongst those consenting to this measure and this form of federation.

I have the honour to be, sir,

Your most obedient servant,

JAMES SERVICE, Premier.