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THE NATIVE RACES UNDER THE NEW CONSTITUTION.

IT has often been remarked that, except at elections, political issues do not arrest the interest of more than a small minority of the people of Australia. This fact may explain popular haziness as to the respective functions of the National and of the State Governments. Possibly, therefore, some even of the readers of the "Austral Light" will now learn for the first time that the new constitution withholds from the National Parliament all power of legislation in respect to the Australian aborigines. As regards peoples "other than the aboriginal race of any State" the Parliament enjoys full jurisdiction to make special laws. Hence, while these words remain, the Federation is powerless to ameliorate the condition of the natives—or to take effective steps, should such be necessary, to vindicate the ways of the white man towards them.

I have been at some pains to discover the reasons which called for this limitation. Superficial enquiry disclosed the fact that none of the several Conventions which fashioned our constitution showed much solicitude for the aborigines. Indeed, the debates will be searched in vain for a clue to the motives for the insertion of this prohibition. Personal application to some of the leading delegates, now members of the Parliament, also failed to elicit a satisfactory explanation. The Conventions apparently accepted without demur the doctrine of the draughtsman that the control of the aborigines inherently belonged to the State. It has been suggested that the limitation originated in a desire to preserve the rights of the New Zealand Legislature in respect to the Maoris. At any rate, it is first met with in the Bill of 1891, at a time when New Zealand was expected to join the Union. The aborigines of the States are therein bracketed with the Maoris as beyond Federal intervention. All will concede that it would be folly for a Parliament sitting in Australia to meddle in Maori affairs. But the incapacity of such a Parliament to legislate advantageously for the Australian aborigines—who are, so to speak, at its doors—does not follow. The admission that New Zealand's Parliament is best qualified to deal with the Maoris does not imply that the State Parliaments are correspondingly most fit to control the Australian aborigines. And if this clause was designed for the benefit of New Zealand, it is regrettable that it should have been retained after that colony had decided to stand out of the Federation.

Let us see what can reasonably be advanced in support of the theory that the State should be supreme in aboriginal affairs, and that the National Government should be denied any prerogative therein. Like the cautious lawgiver who rendered his decisions, but always withheld his reasons, the framers of the Constitution drive us into speculation as to their motives. They may have felt that as the Crown lands, to which the maintenance of native tribes is peculiarly chargeable, had not been vested in the Commonwealth, the latter should not, in fairness, be saddled with the liability. The State Government had absorbed the revenue from the lands of the aborigines, and the contention that it should continue to maintain them, therefore, wears a plausible aspect. Possibly the fear that the cost of the Federal experiment would be found sufficiently onerous without taking over a department which earned nothing and must spend largely, also deterred the delegates. Then the police, who all over Australia have proved indispensable in managing the aborigines, are and must remain State officers. Apart from extra remuneration for duties imposed by an outside authority, complications would be possible were the police required to serve two masters who might simultaneously require their services at different points of the compass.

Other considerations of a practical kind might be cited to justify the Convention in declining for some time, at any rate, to relieve the States of their responsibilities to the original possessors of the soil. The architects of Federation may also have felt that the completion of the edifice would tax to the full the capacity and patience of the builders. For, after all, the Conventions may be said to have only furnished the plans, cleared the ground, and laid the foundations. The postal systems of six States had to be harmonised; the vital principle of customs taxation debated and settled. Confronted with such momentous issues, pressing for immediate adjustment, there was ample warrant for postponing less important obligations. We are all content to await uniform legislation in regard to quarantine, banking, and the like until the larger question of trade relations with the world is determined. Legislation for the aborigines could, likewise, have been deferred without complaint. But postponement of action is one thing; prohibition of action another. No adequate justification can be found for the latter.

It is not clear that the States were unduly desirous of retaining control of the natives. The position is probably due to the reluctance of the Federalists to assume a burden rather than to the determination of the States to preserve a right. A change could not have been resisted on the ground that the State management of the aborigines had been successful or satisfactory. That contention would have conflicted with notorious and well-established facts. That the aboriginal is virtually a slave in one if not in two of the States could have been amply demonstrated: and unless it is seriously contended that slavery is the best state for him, or the only state in which he is fit to exist, then the argument for State supremacy must fail.

Those who desire that the national Government shall care for the native race are impelled by the strong conviction that some of the States have failed in their duty, and cannot be trusted to deal mercifully with the aborigines in future. The accusation is not one of mere laxity of administration, nor of indifference bred of repeated failures to overcome a harassing difficulty. It amounts to a charge that certain legislatures deliberately sought the enslavement of the natives. Their statutes are tendered in evidence. Enactments which permit these unlettered creatures to contract themselves to employers for long periods without reward, which enforce servitude on

females and little children, and under which both sexes may be flogged, are offered in proof. Laws of this sort might, in populous districts, operate without extensive abuse. But in regions far distant and thinly settled, where Legree is alternately the accuser and the judge, passing from the whipping post direct to the seat of justice, the temptation to twist law to the satisfaction of private vengeance is irresistible. The natural results of such legislation are oppression and outrage. Now, does anyone suppose that the stigma of these enactments, and the crimes which they sanction, will attach only to the State or States responsible for them? We never discriminate so nicely ourselves. If a nigger be lynched in Georgia or South Carolina we think and talk of it as an American outrage. So when a native is shot or flogged to death in the lonely interior of this continent, the mass of mankind—if the record of the deed ever leaps to light—will debit it to Australia. No geographical lines or constitutional limitations will be taken into account. The National Parliament is surely the custodian of the national honour and good name. Can it afford to remain quiescent and look on unheeding at a system which impeaches both? At great sacrifice of life and expenditure of money we have vindicated our "loyalty" abroad. To many the necessity is not less pressing of demonstrating our humanity at home.

If the framers of the Constitution intended to keep the Commonwealth clear of the perplexing problems involved in the control of the native races, their object has been frustrated at a very early stage in our career. We are already committed to the taking over of British New Guinea. Mr. Chamberlain's last despatch to Mr. Barton regarding this possession was virtually an ultimatum. In diplomatic language he intimated that if Australia did not assume control, Britain would abandon that territory. New Guinea possesses a virile and prolific native population, one that promises to survive for some time the onsets of civilisation. Again, the Commonwealth has practically promised to assume control of the Northern Territory of South Australia. The tribes inhabiting that region are strong in numbers, and in physique robust. The duty of legislating specially for each of these races cannot be evaded. They cannot be expected to conform at once to the code established for civilised men. Experience has already shown both races to be, to some extent, useful auxiliaries to the settlers. If the native is to be made the best possible use of in the settlement and development of the possessions referred to, we must have special legislation for him, founded on a knowledge of his congenital defects, and administered with wisdom and forbearance. All this points to the creation of a central authority in native affairs. The continued existence of State departments should be superfluous, and may prove even baneful. "Half devil and half child," as he is, the aboriginal demands sympathetic but undeviating treatment. Centralisation would give that; and, in addition, promote economy and efficiency; while also, it may be hoped, infusing a little more humanity into the management of the natives.

Some readers may still be unconvinced that the condition of the aborignies would be improved by a change of masters:—"Why do you expect that the National Government would be more lenient and more just than the State Governments have been?" The answer is in part that the national executive is not amenable to the influence of those who profit by the serfdom of the natives. To at least five constituencies in Western Australia the continuance of this system was of great importance. The State Ministry could not always afford to disregard the votes of the five gentlemen who

represented these districts. But the National Government cannot be appreciably affected by such influences. No local interest is strong enough to intimidate it from a policy dictated by humanity, and which will redeem the good name of Australia. The expectation is also based on experience of Imperial administration. It is true of more than one colony that the natives were treated with greater clemency before the concession of responsible government than after. Indeed, nothing is more creditable to the statesmen of the early Victorian era than their solicitude for the well-being and fair treatment of the native race. Their instructions to the colonial governors contrast very strongly with the subsequent legislation of one or two of the provincial parliaments. Our Australian statesmen must be credited with being the equals of their Imperial prototypes in a desire to do justice to the aborigines. Time has not diminished the need for clemency. These inarticulate victims of brutal taskmasters are quite as helpless as were their nomadic ancestors. Their ranks have been thinned, but to the few that remain pity is due in even more generous measure than of old. No Government can prevent isolated acts of cruelty, however vigorous and complete may be its supervision. But outrages committed under the form and with the sanction of law can and should be repressed. The powers of life and death bestowed by callous legislators should be wrung from the hands of dishonoured magistrates. As we have seen, the Commonwealth must shoulder a share of "the white man's burden" in these seas. It is one of the inevitable appendages of nationhood. No constitutional limitation can intercept that responsibility. We shall, by compulsion, become at an early date the guardian of the native tribes in the Northern Territory. Is this guardianship, with all its possibilities of mutal benefit, to be curtailed by imaginary boundary lines? Every consideration of self-interest, of national honour, and of justice to the hapless race whose country we hold and expect our children to retain, dictates a negative answer.

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THE FOUNDLING HOSPITAL, BROADMEADOWS

The establishment of this excellent home has met with general approval, and we feel sure cordial support will be extended to it from the ever-charitable Catholic body.

To afford facility for the philantrophic to assist, it has been arranged that the manager of the AUSTRAL LIGHT (Mr. J. B. Doran) will in future receive subscriptions at St. Francis' Lodge, which will in future be acknowledged from month to month in our columns. An Irish National Concert will be given in the Melbourne Town Hall, on St. Patrick's night, in aid of the Institution, under the patronage, and in the presence of the Governor-General and Lady Hopetoun.