

**THE REPUBLIC OF WESTERN AUSTRALIA:  
THE LEGAL POSSIBILITY OF WESTERN AUSTRALIA'S  
SECESSION FROM THE AUSTRALIAN FEDERATION**

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*To me, this has been Australia's quiet civil war, a war that continues today.*

- Colin Barnett, Premier of Western Australia<sup>1</sup>

**Abstract**

This paper assesses the legal possibility of Western Australian seceding from the Commonwealth. It begins by discussing the historical context, tracing Western Australia's initial reluctance to join the federal compact, early discontent with federation, the 1930's secession attempt and the 1974 Westralian Secession Movement. It then evaluates three possible avenues for achieving secession: amending the Imperial Act, internal amendments to the Constitution and unilateral secession. The author concludes that secession is legally possible but politically very unlikely to ever succeed.

**I INTRODUCTION**

Australian federalism has once again come under fire from the dissident West. The current resources boom in Western Australia is exposing the fault lines in the rules of federation, rules that need to be rewritten if the

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<sup>1</sup> Amanda O'Brien, 'Tempers Flare but no Tanks Across the Nullarbor – Yet', *Weekend Australian*, 8 May 2010.

federation is to survive into the distant future. The Western discontent with Canberra continues to grow as the Gillard government pushes for further centralisation and plans to implement a national resources tax. This is not the first time the idea of secession has raised its head in Western Australia, in fact, the State has a 'long history of flirting with the idea of becoming its own nation state'.<sup>2</sup> This paper will discuss the history of Western Australia's discontent with the Australian federation and trace the evolution of the secession movement. It will then address the issue of the legality of Western Australia's withdrawal from the federation, concluding that while secession is legally possible, the political likelihood of its occurrence in the foreseeable future is slim to none.

## II HISTORY OF THE WESTERN AUSTRALIAN SECESSION MOVEMENT

### *A Federation and Initial Reluctance*

At the time the federation was first conceived, Western Australia had no desire to become a member of the new Commonwealth.<sup>3</sup> The reasons for the reluctance are logical. Firstly, Western Australia had only become a self-governing colony in 1890 and there was a reluctance to give up the autonomy only so recently attained from the Imperial Government.<sup>4</sup> Secondly, Western Australia generated almost half of its revenue from

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<sup>2</sup> Shane Wright, 'Welcome... to the Republic of Western Australia', *West Australian*, 24 April 2010.

<sup>3</sup> Thomas Musgrave, 'The Western Australian Secessionist Movement' (2003) 3 *Macquarie Law Journal* 95, 95.

<sup>4</sup> Christopher Besant, 'Two Nations, Two Destinies: A Reflection on the Significance of the Western Australian Secessionist Movement to Australia, Canada and the British Empire' (1990) 20 *University of Western Australia Law Review* 209, 226-7.

inter-colonial tariffs,<sup>5</sup> which the *Constitution* would abolish as it intended to make trade, commerce and intercourse among the States ‘absolutely free’.<sup>6</sup> Thirdly, Western Australia was geographically isolated and did not share a sense of unity with its eastern counterparts.<sup>7</sup> New Zealand is situated geographically closer to the Eastern States than Western Australia and was given an opportunity to join the Commonwealth as an original State,<sup>8</sup> but declined the offer.<sup>9</sup>

Despite this initial reluctance, Western Australia did join the Commonwealth as an original member following a referendum on 31 July 1900 in which a majority of Western Australians (44,800 to 19,691) voted in favour of federation.<sup>10</sup> Western Australia declined to participate in the Constitutional Conventions of the 1890’s but agreed to join the federation ‘at the last gasp’.<sup>11</sup> The reasons were largely economic. The draft *Constitution* was amended to include a provision allowing Western Australia to maintain its inter-colonial tariff system for the first five years of federation.<sup>12</sup> There was also the promise of a railway linking Western Australia to the eastern States.<sup>13</sup> Perhaps the largest inducement was the

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<sup>5</sup> Alan Shaw, *The Story of Australia* (Faber and Faber, 1961) 195.

<sup>6</sup> *Australian Constitution* s 92.

<sup>7</sup> Thomas Musgrave, ‘The Western Australian Secessionist Movement’ (2003) 3 *Macquarie Law Journal* 95, 97.

<sup>8</sup> *Australian Constitution* s 6.

<sup>9</sup> Helen Irving (ed.), *The Centenary Companion to Australian Federation* (Cambridge University Press, 1999) 405.

<sup>10</sup> John Quick and Sir Robert Garran, *The Annotated Constitution of the Australian Commonwealth* (Angus and Robertson, 1976) 248-250.

<sup>11</sup> Augusto Zimmermann, ‘The Still Reluctant State: Western Australia and the Conceptual Foundations of Australian Federalism’, in N. Aroney, G. Appleby and T. John (eds.), *The Future of Australian Federalism: Comparative and Inter-Disciplinary Perspectives* (Cambridge University Press, 2011) – forthcoming, 2.

<sup>12</sup> *Australian Constitution* s 95.

<sup>13</sup> Edward Watt, ‘Secession in Western Australia’ (1958) 3 *University Studies in Western Australian History* 43, 64.

pressure applied by the Eastern Goldfields Reform League.<sup>14</sup> Residents in the goldfields had a strong desire for federation and were willing to separate from Western Australia to achieve this goal.<sup>15</sup>

It did not take long for Western Australia to become dissatisfied with the Commonwealth Government. Five years after federation, the Western Australian Legislative Assembly declared Federation had ‘proved detrimental to the interest’ of the State and called for a referendum seeking popular support for a withdrawal from the Commonwealth.<sup>16</sup> The discontent emerged primarily in response to the State budget problems that arose after the five year exemption from free trade came to an end in 1905. Despite the Legislative Assembly resolution, Premier Moore took no action to withdraw Western Australia from the Commonwealth.<sup>17</sup> The will to secede lost moment, at least for the time being.

### B *The 1933 Secession Referendum*

When the Great Depression hit in the 1930’s, Western Australia’s participation in the Commonwealth was seriously threatened. Western Australia’s first serious secessionist movement, the Dominion League, was formed to advocate the secession of Western Australia from the

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<sup>14</sup> Gregory Craven, *Secession: The Ultimate States Right* (Melbourne University Press, 1986) 32.

<sup>15</sup> Christopher Besant, ‘Two Nations, Two Destinies: A Reflection on the Significance of the Western Australian Secessionist Movement to Australia, Canada and the British Empire’ (1990) 20 *University of Western Australia Law Review* 209, 226-7.

<sup>16</sup> Parliament of Western Australia, Legislative Assembly 1906 *Debates* Volume 29, 1871.

<sup>17</sup> Augusto Zimmermann, ‘The Still Reluctant State: Western Australia and the Conceptual Foundations of Australian Federalism’, in N. Aroney, G. Appleby and T. John (eds.), *The Future of Australian Federalism: Comparative and Inter-Disciplinary Perspectives* (Cambridge University Press, 2011) – *forthcoming*, 3.

Commonwealth.<sup>18</sup> Pressure from the Dominion League led to the Western Australian Parliament passing the *Secession Referendum Act 1932* (WA), which provided for a referendum on secession to be held with the next State general election in 1933. The referendum was held on 8 April 1933 and the population voted overwhelmingly in favour of secession, with 68 percent (138,654 to 70,706) of voters voting in favour of withdrawing from the Commonwealth.<sup>19</sup> The people had spoken and the Government promised to take ‘all steps necessary to give effect to the majority decision of the people’.<sup>20</sup>

Given the majority support for secession, the newly elected Labor Government led by Premier Collier began the process of considering the possibility of withdrawing from the Commonwealth, despite the fact that the new Government did not support secession.<sup>21</sup> The Government considered three possible options to effect the peoples’ wish for secession. First was the possibility of a unilateral secession without the support of either the Commonwealth or the Imperial Parliament.<sup>22</sup> This option was not plausible because it was important to keep strong ties with the United

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<sup>18</sup> Thomas Musgrave, ‘The Western Australian Secessionist Movement’ (2003) 3 *Macquarie Law Journal* 95, 105.

<sup>19</sup> Christopher Besant, ‘Two Nations, Two Destinies: A Reflection on the Significance of the Western Australian Secessionist Movement to Australia, Canada and the British Empire’ (1990) 20 *University of Western Australia Law Review* 209, 251.

<sup>20</sup> Edward Watt, ‘Secession in Western Australia’ (1958) 3 *University Studies in Western Australian History* 43, 55.

<sup>21</sup> Augusto Zimmermann, ‘The Still Reluctant State: Western Australia and the Conceptual Foundations of Australian Federalism’, in N. Aroney, G. Appleby and T. John (eds.), *The Future of Australian Federalism: Comparative and Inter-Disciplinary Perspectives* (Cambridge University Press, 2011) – forthcoming, 6.

<sup>22</sup> Gregory Craven, *Secession: The Ultimate States Right* (Melbourne University Press, 1986) 46.

Kingdom from an economic point of view,<sup>23</sup> and also considering that the Dominion League had expressed its deep loyalty to the Crown.<sup>24</sup> Second was the possibility of internal amendment to the *Constitution* by using the section 128 amendment procedures. This was even more problematic, as it would require support from both houses of the Commonwealth Parliament and also a majority of voters in every State.<sup>25</sup> It was also problematic in that the section 128 amendment procedures apply only to the substantive clauses of the *Constitution*, and not to the preamble and covering clauses which Western Australia would need to alter to remove itself from the Federation.<sup>26</sup> The third option was to petition the Imperial Parliament to amend the *Constitution Act*<sup>27</sup> and enact new legislation to reconstitute Western Australia as a self-governing dominion of the British Empire.<sup>28</sup> This third option seemed the most realistic, and the State Government announced in 1934 that it planned to petition the Imperial Parliament.<sup>29</sup>

Western Australia's petition to secede was presented to the Imperial Parliament in November 1934.<sup>30</sup> The Imperial Parliament refused to receive

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<sup>23</sup> *Secession Act 1934* (WA), 25 Geo 5, Statutes of Western Australia, No 2, The Second Schedule, 17 (XXV).

<sup>24</sup> Christopher Besant, 'Two Nations, Two Destinies: A Reflection on the Significance of the Western Australian Secessionist Movement to Australia, Canada and the British Empire' (1990) 20 *University of Western Australia Law Review* 209, 236.

<sup>25</sup> Gregory Craven, *Secession: The Ultimate States Right* (Melbourne University Press, 1986) 47.

<sup>26</sup> Thomas Musgrave, 'The Western Australian Secessionist Movement' (2003) 3 *Macquarie Law Journal* 95, 108.

<sup>27</sup> *Commonwealth of Australia Constitution Act* (1900) (Imp.).

<sup>28</sup> Thomas Musgrave, 'The Western Australian Secessionist Movement' (2003) 3 *Macquarie Law Journal* 95, 108.

<sup>29</sup> *Ibid.*

<sup>30</sup> W. A. Wynes, *Legislative, Executive and Judicial Powers in Australia* (Law Book Co., 1976) 540.

the petition until it first determined whether it could properly be received.<sup>31</sup> A Joint Select Committee was established by the Imperial Parliament to determine whether constitutional law and conventions allowed a petition to be received from a State within a dominion.<sup>32</sup> The doctrine of parliamentary sovereignty gave the Imperial Parliament the power to enact legislation which could overrule legislation in the dominions.<sup>33</sup> The idea of parliamentary sovereignty was further expressed in the *Colonial Laws Validity Act*.<sup>34</sup> However, the passing of the *Statute of Westminster* in 1931 stopped Imperial Parliament legislation automatically applying in the dominions.<sup>35</sup> The *Statute of Westminster* was not adopted into Australian law until 1942, so there are questions as to whether it would have even applied. In any event, if it did not apply, the Imperial Parliament had a practice of not interfering with the internal affairs of its dominions unless specifically requested to do so.<sup>36</sup>

The Committee heard oral arguments from counsel for the State of Western Australia and counsel for the Commonwealth in 1935 on the receivability of the petition. The Committee concluded that there was an ‘undoubted and ancient right of Parliament to receive whatever petitions it thinks fit’,<sup>37</sup> but

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<sup>31</sup> Thomas Musgrave, ‘The Western Australian Secessionist Movement’ (2003) 3 *Macquarie Law Journal* 95, 110.

<sup>32</sup> Christopher Besant, ‘Two Nations, Two Destinies: A Reflection on the Significance of the Western Australian Secessionist Movement to Australia, Canada and the British Empire’ (1990) 20 *University of Western Australia Law Review* 209, 277-8.

<sup>33</sup> Kenneth Bailey, ‘The Statute of Westminster’ (1932) 5 *Australian Law Journal* 362, 399.

<sup>34</sup> *Colonial Laws Validity Act 1865*, 28 & 29 Vict, c 63.

<sup>35</sup> *Statute of Westminster*, Geo 5, c 55.

<sup>36</sup> Thomas Musgrave, ‘The Western Australian Secessionist Movement’ (2003) 3 *Macquarie Law Journal* 95, 114.

<sup>37</sup> *Report by the Joint Committee of the House of Lords and the House of Commons Appointed to Consider the Receivability of the Petition of the State of Western*

that the Parliament would only receive petitions made by the dominion ‘speaking with the voice that represents it as a whole and not merely at the request of a minority’.<sup>38</sup> A petition would only be received by a State government if the subject matter related only to states powers under the *Constitution*.<sup>39</sup> The Imperial Parliament refused to receive the petition on the advice of the Committee that it did not have the jurisdiction to ‘except upon the definite request of the Commonwealth of Australia conveying the clearly expressed wishes of the Australian people as a whole’.<sup>40</sup>

The case for secession had failed, and support for the Dominion League in the Western Australian community dwindled.<sup>41</sup> The Dominion League itself became disheartened by the failure and had faded into obscurity by 1938.<sup>42</sup> The anti-secessionist Labor Government was, not surprisingly, happy to let the issue of secession drop off the political agenda. By the end of the 1930’s the issue of secession was little more than a vague memory, and three decades would pass before the issue was reignited.

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*Australia*, Parliamentary Papers of the House of Commons (1934-35), Volume VI, No 88 (‘The Report’) para 2, vi.

<sup>38</sup> *Ibid*, para 7, viii.

<sup>39</sup> *Ibid*, para 9, ix.

<sup>40</sup> *Ibid*, para 13, x.

<sup>41</sup> Augusto Zimmermann, ‘The Still Reluctant State: Western Australia and the Conceptual Foundations of Australian Federalism’, in N. Aroney, G. Appleby and T. John (eds.), *The Future of Australian Federalism: Comparative and Inter-Disciplinary Perspectives* (Cambridge University Press, 2011) – *forthcoming*, 8.

<sup>42</sup> Christopher Besant, ‘Two Nations, Two Destinies: A Reflection on the Significance of the Western Australian Secessionist Movement to Australia, Canada and the British Empire’ (1990) 20 *University of Western Australia Law Review* 209, 229.



### C *After the Failed 1933 Secession Attempt*

The push for secession never attained such prominence after the failed secession movement of the 1930's. As the economy picked up Western Australian's became complacent and forgot about the desire to secede. The secession debate was reignited briefly in 1974 by mining magnate Lang Hancock with the formation of the Westralian Secession Movement.<sup>43</sup> The movement was sparked in reaction to the centralist policy of the Whitlam Labor Government.<sup>44</sup> However, the movement failed to achieve prominence due to the strong economy at the time, and disappeared as quickly as it emerged.

## III THE LEGAL POSSIBILITY OF SECESSION

As discussed above, the Collier Government decided there were three possible ways of effecting secession from the Commonwealth. An amendment to the Imperial Act, an amendment to the *Constitution*, and a unilateral secession. This section will explore the legal merit of each of these claims.

### A *Amending the Imperial Act*

It would no longer be possible for Western Australia to secede from the Commonwealth by amending the Imperial Act. Since the enactment of the

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<sup>43</sup> Augusto Zimmermann, 'The Still Reluctant State: Western Australia and the Conceptual Foundations of Australian Federalism', in N. Aroney, G. Appleby and T. John (eds.), *The Future of Australian Federalism: Comparative and Inter-Disciplinary Perspectives* (Cambridge University Press, 2011) – *forthcoming*, 8.

<sup>44</sup> Geoffrey Bolton, 'The Civil War We Never Had', the Third Conference of the Samuel Griffith Society, Fremantle, 5-6 November 1994, [www.samuelgriffith.org.au/papers/html/volume3/v3chap5.htm](http://www.samuelgriffith.org.au/papers/html/volume3/v3chap5.htm).

*Statute of Westminster*, it would be impossible to effect secession through an amendment to the *Constitution Act*.<sup>45</sup> This impossibility was strengthened with the passage of the *Australia Act*,<sup>46</sup> which provides that ‘no Act of the Parliament of the United Kingdom passed after the commencement of this Act shall extend... to the Commonwealth’.<sup>47</sup> These two acts give the Commonwealth the full autonomy to legislate for the people in the dominion without interference by the Parliament of the United Kingdom. It is also evident from Western Australia’s 1930’s secession attempt that, even if the Parliament of the United Kingdom could still change the *Constitution*, it would be extremely reluctant to do so.

### B *Amending the Constitution*

Secession could be legally achieved by amending the *Constitution* using the provisions of section 128. However, amending the *Constitution* is not without its difficulties. Internal amendment to the *Constitution* first requires majority support from both houses of the Commonwealth Parliament. Given the rich resource wealth of Western Australia, the likelihood of any Commonwealth Government ever agreeing to the secession of Western Australia is dubious at best. Even supposing the Parliament supports secession, the second stage for amendment under section 128 of the *Constitution* is even more difficult to overcome:

If in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the

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<sup>45</sup> *Commonwealth of Australia Constitution Act* (1900) (Imp.).

<sup>46</sup> *Australia Act 1986* (Cth).

<sup>47</sup> *Ibid*, s 1.

proposed law, it shall be presented to the Governor-General for the Queen's assent.

History has shown that amending the *Constitution* is a difficult process. Of forty four proposals, only eight have been approved. The chances of the majority of citizens supporting Western Australia's secession, particularly in the eastern States, are slim to none.

Supposing a referendum to change the *Constitution* was successful, it would be necessary to amend covering Clause 3 of the *Constitution*, which provides:

It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

It would be necessary to omit the reference to Western Australia from the covering clause to legally validate the secession. As it currently stands, the clause compels Western Australia to be united in the Commonwealth as it stipulates that the states '*shall* be united in a Federal Commonwealth' (emphasis added).<sup>48</sup> When interpreting the *Constitution*, words should be given their ordinary meaning.<sup>49</sup> The use of the word 'shall' connotes a

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<sup>48</sup> Ibid, covering clause 3.

<sup>49</sup> *Amalgamated Society of Engineers v Adelaide Steamship Co.* (1925) 28 CLR 128.

mandatory obligation to be united.<sup>50</sup> The mandatory obligation would not be binding on Western Australia if the reference to the State was removed from the clause, allowing it to withdraw from the Commonwealth constitutionally.

The Preamble of the *Constitution* could potentially pose an issue, declaring the Commonwealth to be ‘one indissoluble Federal Commonwealth’.<sup>51</sup> However, the Preamble need not necessarily be altered for Western Australia to secede as it is not a binding provision and consequently cannot be relied upon to prohibit secession.<sup>52</sup> The Preamble can be used as ‘a key to open the minds of the Makers of the Act, and the mischiefs which they intended to redress’.<sup>53</sup> The inclusion of the word ‘indissoluble’ reflects the founders’ intent to prohibit secession from the Commonwealth.<sup>54</sup> The founders all agreed that they intended the union to be ‘permanent and indestructible’.<sup>55</sup> However, they neglected to include a bar to secession in the substantive provisions of the *Constitution*. Although the preamble reflects the will of the founders in making the federation permanent, the preamble can only be used to assist in the interpretation of ambiguities in the main body of the legislation.<sup>56</sup> Given that there are no ambiguities in the main text of the *Constitution* with regards to the right of a State to

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<sup>50</sup> John Quick, *The West Australian Discontent is Secession Possible?* (University of Sydney, 2001).

<sup>51</sup> *Australian Constitution*, preamble.

<sup>52</sup> Gregory Craven, ‘The Constitutionality of the Unilateral Secession of an Australian State’ (1985) 15 *Federal Law Review* 123, 127.

<sup>53</sup> *Stowel v Lord Zouch* (1569) 75 ER 536.

<sup>54</sup> Gregory Craven, *Secession: The Ultimate States Right* (Melbourne University Press, 1986) 53.

<sup>55</sup> Josiah Symon, *Convention Debates*, Adelaide, 1897, 128.

<sup>56</sup> *Overseers v West Ham Iles* (1883) 8 App Cas 386.

secede, the preamble cannot be used of itself to bar Western Australia from seceding from the Commonwealth.

### C *Unilateral Secession*

In theory it is possible for a State to claim its independence under the principle of self-determination. The United Nations has declared that the rights of minority groups and their desire for self-determination should be respected.<sup>57</sup> However, this must also be weighed up against the need for territorial integrity. The international law with respect to self-determination is complex, and it is not intended to set it out here in any comprehensive manner.<sup>58</sup> What is important to note in this context is that the right to self-determination is not absolute, and ‘any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purpose and principles of the Charter of the United Nations’.<sup>59</sup> Western Australia’s unilateral secession would threaten the territorial integrity of the Commonwealth of Australia, and consequently any attempt to secede unilaterally cannot be justified under the principle of self-determination.

The issue of unilateral secession has arisen in analogous circumstances with Quebec’s attempted secession from Canada. In *Reference re:*

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<sup>57</sup> United Nations, General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples (GA Res 1514 (XV), 14 December 1960), para 6.

<sup>58</sup> For a more comprehensive discussion of the principle of self-determination see Hurst Hannum, ‘Rethinking Self-Determination’ (1993) 34 *Virginia Journal of International Law* 1.

<sup>59</sup> United Nations, General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples (GA Res 1514 (XV), 14 December 1960), para 6.

*Secession of Quebec*,<sup>60</sup> the Canadian Supreme Court held unanimously that ‘there is no right, under the *Canadian Constitution* or at international law, to unilaterally secede’.<sup>61</sup> At international law, the rights of minority groups and their desire for self-determination should be respected.<sup>62</sup> However, this principle does not extend to unilateral secession that threatens territorial integrity.<sup>63</sup> Although there is no constitutional right to unilaterally secede, a State’s aspiration to secede ‘would place a duty on the other provinces to enter into negotiations regarding the constitutional future of the federation’.<sup>64</sup> Western Australia’s desire to secede should be acknowledged and considered by the Commonwealth, but there is no right in the *Constitution* or at international law to unilaterally secede.

#### IV A NEW SECESSION THREAT?

Given that secession is - at least in theory - possible, the question then arises: is there a new secession threat? Just recently Western Australian Premier Colin Barnett declared that relations between the Commonwealth Government and the Western Australian Government had degenerated into an ‘unsavoury and unfriendly environment’.<sup>65</sup> Whilst Premier Barnett himself is not an advocate for secession,<sup>66</sup> he is more than happy to ‘fuel the fire’ so to speak, telling a business lunch last year that he ‘felt under

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<sup>60</sup> *Reference re: Secession of Quebec* [1998] 2 SCR 217.

<sup>61</sup> *Ibid* at 449.

<sup>62</sup> United Nations, General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples (GA Res 1514 (XV), 14 December 1960), para 6.

<sup>63</sup> *Ibid*.

<sup>64</sup> Johan D Van Der Vyer, ‘Self-determination of the Peoples of Quebec Under International Law’, 10 *Journal of Transnational Law and Policy* 1, 3.

<sup>65</sup> Andrew Burrell, ‘WA Shuns Canberra, eyes China’, *Weekend Australian*, 28 May 2011.

<sup>66</sup> Paul Kelly, ‘Canberra Doesn’t Understand the West’, *Weekend Australian*, 4 December 2010.

siege from Canberra’ and declared that the State’s future ‘lay over the horizon and not over the Nullarbor’.<sup>67</sup> Despite the Premier’s lack of enthusiasm for pushing secession, other Cabinet Ministers are more vocal, notably Norman Moore, the Minister for Mining and Petroleum. Last year he made the following comments:

I’d like to see it [the case for secession] thoroughly analysed because what’s increasingly happening is that decisions about the affairs of Western Australia are being made in Canberra... Everywhere you look in respect to what the state government does there is pressure coming for uniformity, for common laws, for the commonwealth to be involved in all sorts of things. The national curriculum, the hospital system; they’re now wanting a resource rent tax that looks after the eastern states and penalises Western Australia. All these things suggest that, increasingly, we’re losing control of our own affairs.<sup>68</sup>

The secession movement also has a level of popular support, with the local and national newspaper open letter pages featuring secession arguments from disgruntled citizens. The driving force behind popular sentiment is the shift of federal balance, with Canberra becoming ever more powerful. If the federal balance was appropriately restored, giving power back to the States, the likely reality is that the talk of secession will fade once more.<sup>69</sup>

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<sup>67</sup> Amanda O’Brien, ‘Tempers Flare but No Tanks Across the Nullarbor – Yet’, *Weekend Australian*, 8 May 2010.

<sup>68</sup> Ibid.

<sup>69</sup> Augusto Zimmermann, ‘The Still Reluctant State: Western Australia and the Conceptual Foundations of Australian Federalism’, in N. Aroney, G. Appleby and T. John (eds.), *The Future of Australian Federalism: Comparative and Inter-Disciplinary Perspectives* (Cambridge University Press, 2011) – *forthcoming*, 13.

The likelihood of Western Australia actually attempting to secede from the Commonwealth in the foreseeable future is practically non-existent. When threats of secession are taunted at Canberra, the remarks are really nothing more than empty threats.<sup>70</sup> The nation's leading expert on secession, Gregory Craven, recently stated: 'I think at the end of the day when Western Australia threatens to secede, it's just a bargaining position. If you ever tried to take it any further the consequences are so horrific to contemplate that either side would ever actually do it.'<sup>71</sup> Although secession may be possible, we are unlikely to see a Republic of Western Australia any time in the foreseeable future.

## V CONCLUSION

Western Australia was reluctant to join the Commonwealth from the very beginning, and has remained reluctant to remain in the Commonwealth ever since. However, despite this longstanding reluctance, there has only ever been one real attempt to withdraw from the Commonwealth in the 1930's. Although secession is legally possible through amendment to the *Constitution*, the political reality is that the chances of Western Australia withdrawing from the Commonwealth are remarkably low. The costs associated with secession would be enormous, and the new sovereign nation would need to raise its own defence force, tackle immigration problems, deal with trade barriers with its eastern counterparts and so on.<sup>72</sup> The current revitalisation of the secession debate in reality has less to do

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<sup>70</sup> Gregory Craven, *Secession: The Ultimate States Right* (Melbourne University Press, 1986) 8.

<sup>71</sup> Amanda O'Brien, 'Tempers Flare but No Tanks Across the Nullarbor – Yet', *Weekend Australian*, 8 May 2010.

<sup>72</sup> See Shane Wright, 'Welcome... To the Republic of Western Australia', *West Australian*, 24 April 2010.



with the genuine wish to secede and more to do with discontent at the federal imbalance. The idea of secession will continue to raise its head until Canberra pays more attention to the needs and wants of the resource rich Western Australia. Until the federal balance is fixed, the threat of secession will continue to linger. As Premier Barnett has said, ‘this has been Australia’s quiet civil war, a war that continues today’.<sup>73</sup>

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<sup>73</sup> Amanda O’Brien, ‘Tempers Flare but No Tanks Across the Nullarbor – Yet’, *Weekend Australian*, 8 May 2010.

