

## Enclosure in No. 13.

The Hon. the PREMIER to His Excellency the GOVERNOR.

*Memorandum for His Excellency.*

SIR GEORGE GREY presents his respectful compliments to the Marquis of Normanby, and begs now to return the despatch from the Secretary of State announcing that a certain rank and dignity has been conferred on Mr. Justice Chapman and Mr. Justice Gresson; and also the despatch respecting Judges of the Australasian Colonies generally, as regards such rank and dignity.

2. A memorandum by Mr. Fox, attached to the former despatch, will explain the circumstances under which it was mislaid. Sir George Grey regrets greatly that it should have been mislaid, but it was beyond his control; and he can only apologize to the Marquis of Normanby for the inconvenience he suffered from the delay in the return of the despatch.

3. Sir George Grey naturally received with much pleasure the notification that it was intended to recognize, in some manner, the services of two Judges of New Zealand who have so well discharged the duties of their high offices as have Judge Chapman and Judge Gresson.

4. The mode in which, however, it is proposed to do this involves serious considerations, especially as the notification of the rank and dignity conferred on two New Zealand Judges is accompanied by a despatch which proposes to establish general rules in relation to similar cases, which the Secretary of State directs should hereafter be observed within the limits of New Zealand.

5. In making the following remarks upon this point, Sir George Grey wishes to avoid reflections upon the past, as he is well aware that the Secretary of State's action accorded with the wishes of former Ministers in New Zealand; but as Sir George Grey finds that the subject has never been brought under the attention of the General Assembly or of the people of New Zealand, he thinks it his duty to submit the following remarks for the consideration of Her Majesty's Advisers:—

6. A Representative Constitution has been bestowed by the British Parliament on New Zealand, under which the General Assembly is authorized to make all provisions necessary for the peace, order, and good government of the Islands of New Zealand.

7. This question now, therefore, naturally arises: Can the Crown, after the grant of such a Constitution to this country, create and establish in New Zealand, without the consent of the General Assembly, an order of rank and dignity which does not exist in Great Britain, which is to be confined within the limits of the Islands of New Zealand, and the probable direct tendency of which (in the belief of many of the people of the colony) may be to bring about ultimately a separation of New Zealand from the Empire, because it establishes here a *quasi* aristocracy, which will have no recognized rank or position in any part of the Empire outside this dependency of the Crown?

8. It certainly seems that such a proceeding is one which involves the order and good government of this colony so materially that, after the grant to it of a Representative Constitution, a local rank like that proposed can only be established here with the concurrence and assent of the New Zealand Parliament. On this point, it would probably be thought by the Secretary of State for the Colonies to be desirable to take the opinions of the Attorney- and Solicitor-General.

9. But even if, strictly in point of law, it were held that the Crown could impose on New Zealand the establishment within its limits of such a rank and dignity as it is now proposed permanently to introduce here, nevertheless, as a matter of wise and far-sighted policy, it would appear to be judicious to allow the General Assembly to be heard in the matter before establishing in New Zealand such a general rule as it has now been determined to lay down.

10. The Governor was anxious that a notification of the rank and dignity conferred on Judge Chapman and Judge Gresson, and of the general rule it is hereafter intended to enforce in this country, in relation to conferring such rank and dignity on retired Judges, should be published in the *New Zealand Gazette*.

11. Sir George Grey, anxious in all possible ways to meet the views of the Governor, yielded to his wishes upon the former point; and he was the more ready to do this because he found that the preceding New Zealand Ministry had advised the Secretary of State to take the course which he had taken. But upon the latter point, Sir George Grey feels it to be his duty to offer the following remarks:—

12. The rule observed for a long period of time has been, that when Her Majesty is graciously pleased to reward the distinguished services of any public servant of the Empire, by conferring any rank or dignity upon him, such fact is notified in the *London Gazette*. This practice redounds to the honor of the public servant who is so rewarded, because it gives a wide currency to his name, and creates inquiry as to the nature and value of his services. It also binds together in one common bond of honor the whole of Her Majesty's vast possessions. The observance of this rule renders it impossible to create, almost unnoticed, new ranks and dignities, and to establish rules and precedents which may have the most important influence upon distant possessions of the Crown, and may hereafter exercise a pernicious influence on the entire Empire: for so long as the rule hitherto in force is observed, such steps can only be taken in the presence,