

No. 13.

MEMORANDUM for HIS EXCELLENCY.

MINISTERS beg to acknowledge the receipt of His Excellency's memorandum of the 8th instant, and desire to notice one or two matters therein. His Excellency remarks that the "best information he was able to obtain was procured solely from public documents, and the memorandum left by Lord Onslow." Ministers reply that no public documents have ever been submitted to them by His Excellency of any kind bearing on the question, and they have had no opportunity of expressing any opinion upon them. The same observation will apply to the memorandum left by Lord Onslow, in so far as it was treated confidentially; and, although a memorandum (probably that referred to) was sent the Premier for his inspection, no copy was kept, and His Excellency has never asked for the opinion or advice of Ministers on this confidential memorandum. Moreover, the circumstances affecting the Council have greatly changed since the departure of Lord Onslow; and his memorandum could hardly be supposed to express the present condition of affairs.

Ministers take exception to the statement "that the idea underlying the whole case of Ministers is that whatever measures an Administration bring forward are certain to express the feeling of the country." It would be more correct to say that measures passed by large majorities of the House of Representatives within eighteen months of its election are sufficient to entitle Ministers to the confidence of His Excellency, and to express in terms not to be misunderstood in a self-governing community that the measures do express the feeling of the country.

Ministers notice that His Excellency points out "that the suspensory powers conferred by the Constitution on the Second Chamber is a constitutional check intended to give power to the electorate through the intervention of the Legislative Council at any time to step in and control legislation," and that "this plan insures greater freedom to the electorate than that favoured by Ministers." Ministers reply that the argument, if applied in practice, would prove immediately destructive to the Constitution. It means that with the sanction and support of the Governor the Council is at all times to possess the power to impose a penal dissolution on the country; that a nominee Chamber is to be accepted as a better judge or exponent of the feelings of the country than the representative of the people; and that a decisive majority in the Second Chamber is to be maintained by the Representative of Her Majesty in order to "control legislation." It also means that a majority irresponsible for its acts may harass, by the expense and worry of an election, the representative body; and it suggests the fatal position that the Governor is to be associated with the Council as the practical application of the doctrine.

If Ministers could believe that this was the true intent and meaning of the Constitution, they would despair of its survival beyond the popular recognition of the fact; but they have not so read it, and hope, for the sake of the Constitution, that such a construction may not prove to be accurate.

The construction may be stated (in accordance with actual facts in recent history) to be this: A majority in the Legislative Council should be in harmony with the minority in the House of Representatives when the Liberals are in power, with a penal dissolution suspended over the heads of the Government; but when the Conservatives are in power they should have majorities in both Chambers without the "constitutional check." If the first plan insures "greater freedom to the electorate," it is difficult to describe the constitutional bearings of the second. Yet Ministers have asked for no more than a respectable minority in the Second Chamber. It is against the application of such constitutional doctrines as these that Ministers respectfully enter their protest.

Ministers thank His Excellency for the information that the series of correspondence will be sent to the Secretary of State, and request that this memorandum may be included.

Premier's Office, Wellington, 9th August, 1892.

J. BALLANCE.

No. 14

His Excellency the GOVERNOR to the Right Hon. the SECRETARY of STATE for the COLONIES.

MY LORD,—

Wellington, 8th August, 1892.

I have the honour to forward herewith a memorandum from my Ministers, dated the 5th August, calling your attention to a difference which has occurred, to my deep regret, between myself and them regarding appointments to the Legislative Council. I addressed a confidential despatch (No. 31/92) to the Secretary of State for the Colonies on the 22nd day of June, giving all information on the subject up to date, and I annex a schedule containing a list of papers bearing on the subject. The papers themselves accompany this despatch.

I submit that the memorandum contains something more than a statement of the difference between us; it is also an expression of opinion that greater powers should be given to Ministers than they at present possess.

I would now respectfully offer a few remarks upon the result of granting the powers Ministers think should be given them.

Let it be supposed that in a colony possessing representative institutions Ministers resign, appeal to the country, are defeated, and replaced by the Opposition. On coming into power the new Ministry introduces—as Ministers are not unlikely to do—a measure which it thinks will be popular, besides that which they were returned to carry out. The Legislative Council throws it out. The Ministry advises the Governor to appoint sufficient Legislative Councillors to overcome opposition in the Chamber. The people have not been consulted, and support the arguments advanced in the Council. But, supposing the Ministers have the power they think should be theirs, the Governor must grant the appointments asked for. The result would be that the Council is coerced, the measures are passed, and the people come under a law to which they may object, and on which they have not been consulted.