

Government acquired the sovereignty of New Zealand, or in any other way marked by evident injustice towards Her Majesty's subjects of the Native Race.

"In the interests of the Colonists themselves, you might feel yourself bound, under conceivable circumstances, to appeal from your Government to the General Assembly, and from the General Assembly to the Constituencies, in case the policy recommended for your acceptance appeared to you clearly disastrous.

"You would be bound to judge for yourself as to the justice and propriety of employing, and the best mode of employing, Her Majesty's Forces. In this matter you might of course fortify yourself by taking the opinions of your Ministers, but the responsibility would rest with yourself, and the officer in command."

In the Session of the General Assembly of 1863, being the next following the receipt of the Secretary of State's Despatch of the 26th of February, the House of Representatives unanimously passed the following Resolutions:—

"That this House—having had under its consideration the Despatch of Her Majesty's Principal Secretary of State for the Colonies, dated the 26th February, 1863, conveying the fixed determination of Her Majesty's Imperial Government to revoke the arrangements of 1856, and for the future to require the Colonists to undertake the Responsibility of the management of Native Affairs—recognizes with the deepest gratitude the great interest which Her most Gracious Majesty has always taken in the welfare of all races of Her Colonial subjects, and the thoroughly efficient aid which Her Majesty's Government is now affording for the suppression of the Rebellion unhappily existing, and the Imperial establishment of law and order in the Colony.

"And, relying on the cordial co-operation of the Imperial Government for the future, cheerfully accepts the responsibility thus placed upon the Colonists, and at the same time records its firm determination to use its best endeavours to secure a sound and lasting peace; to do justice impartially to both races of Her Majesty's subjects, and to promote the civilisation and welfare of all classes of the inhabitants of these islands."

The Legislative Council passed a similar Resolution by a majority of 15 to 1.

A clear definitive arrangement as to the conduct of Native affairs was then come to between Her Majesty's Imperial Government and the General Assembly of New Zealand, which it is most respectfully submitted it was incumbent on both parties to adhere to.

His Excellency's Responsible Advisers cannot, however, but feel apprehensive that the passage they have quoted from Mr Cardwell's Despatch of the 26th of May may be made as capable of an interpretation subversive of this arrangement, and, if fully acted on, involve the resumption of the administration of Native affairs in matters of the most vital importance to the Colony. It is clear that that passage, read alone, bears such an interpretation; but it appears to His Excellency's Advisers that the sentences, following that quoted qualify it, and are intended to operate as instructions as to the manner in which His Excellency is intended to act upon his own judgment should he differ from his Responsible Advisers. This reading renders Mr Cardwell's Despatch harmonious with, and not, as it otherwise would be, antagonistic to, that of the Duke of Newcastle.

Under His Grace's arrangement with the Colony, His Excellency the Governor has recognised *negative powers*, and he is bound to judge for himself as to the justice and propriety of employing Her Majesty's Forces; but he is not entitled, without the advice of his Ministers, to deal with any question of Native Policy: and if the policy they recommend for his acceptance appears to him clearly disastrous, he may appeal to the General Assembly, and from the General Assembly to the Constituencies. The Governor's constitutional position with regard to his Advisers is the same in regard to Native as to ordinary Colonial Affairs.

His Excellency's Responsible Advisers are anxious not to be misunderstood. They do not claim the right to enforce their policy with Her Majesty's Imperial Troops. In this respect His Excellency has a *negative* power, which is not disputed; but His Excellency's Advisers do insist that the Governor has not the right to carry out a policy of his own, irrespective of his Responsible Advisers. The Despatch of the Duke of Newcastle, of the 26th of February, clearly abandons any such right, and the Despatches from Mr. Cardwell cannot be accepted as reviving it.

Her Majesty's Secretary of State may fully rely that His Excellency's Ministers are animated by a just sense of the exertions and sacrifices which have already been made by the Mother Country for the Colony, and that, on Colonial grounds, they are as anxious as the Governor can be to terminate the present hostilities. Practically, no difference of opinion as yet exists between His Excellency and his Advisers, and they trust it may not arise; but as a feeling has arisen in the Colony since the receipt of Mr Cardwell's Despatch of the 26th of April, that it is the intention of the Imperial Government to subvert the existing arrangement as to the administration of Native affairs in some matters, and these of the highest importance to the Colony, His Excellency's Advisers deem it to be an imperative duty to place on record without delay their protest against the introduction of a new form of government, under which Native affairs would be administered partly by His Excellency and partly by his Advisers—in fact, two Governments for the same affairs, "which not only would not always aid one another, but which would sometimes act at cross purposes with each other," rendering it "quite impossible that Her Majesty's Government could be advantageously carried on under such a system;" a system far worse than that which the Duke of Newcastle pronounced a failure, and which could not but operate mischievously, alike to both Imperial and Colonial Interests.

Ministers request that His Excellency will be pleased to transmit a copy of this memorandum to Her Majesty's Secretary of State.

Auckland, 2d August 1864.

FREDK. WHITAKER.

NOTE.—This is the Memorandum of 2nd August, referred to in Ministerial Memorandum of 30th September, 1864, printed E.—No. 2., page 97, and should have appeared in that paper.

MEMORANDUM by MINISTERS.

The Colonial Secretary begs to acknowledge the receipt of His Excellency's Memorandum, of the 26th instant, relative to his communication with Wi Tako. In reference to His Excellency's explana-