

cretion of the Governor, in opposition, if needs be, to the advice of his Ministers. This is not at all what His Excellency makes him say, but quite the reverse. Ministers have never objected to the first part of Mr. Cardwell's proposition—that the case of the prisoners is anomalous, and not to be dealt with according to positive law. It was because they had themselves arrived at that conclusion that they objected to the Governor's proposal to try some of them by the ordinary tribunals. What they protested against in Mr. Cardwell's despatch was, that he proposed to withdraw the decision of a case, which he acknowledged to be one of policy and not of law, from the control of Responsible Ministers; leaving it not only to be dealt with apart from all positive law, which they think was right: but "at the pleasure of one man" (the Governor), against or without the advice of Ministers, which they think was wrong.

But the most remarkable perversion of Mr. Cardwell's meaning is to be found in the following passage of His Excellency's despatch: "In the event," says His Excellency, "of the Ministry requiring the Governor to act virtually as their servant in carrying out illegal acts, in a manner that he regards as being unduly harsh, you (Mr. Cardwell) will support him in refusing any longer to carry out such illegal proceedings, in a manner he deems harsh and ungenerous." Mr. Cardwell has certainly said nothing like this. According to His Excellency's interpretation of Mr. Cardwell's words, he is only to reject the advice of his Ministers when they require him to do an illegal act, if that illegal act be also unduly harsh and ungenerous! It is not the illegality at which he is to stumble, but the harshness! If he is required to do an act of mild illegality, he must submit to the usual conditions of Responsible Government, and do the act, however illegal. If it is harsh and ungenerous, as well as illegal, then and then only, he is to refuse to do it. Ministers again fail to discover anything like this in Mr. Cardwell's despatch.

Of course, if His Excellency's paraphrase of Mr. Cardwell's despatch be correct, the protest of Ministers against it falls to the ground without point. They have wasted words and been beating the air. When, however, they place Mr. Cardwell's despatch and His Excellency's in parallel columns, they are convinced that the natural sense of Mr. Cardwell's words has been rightly apprehended by them, and wrongly rendered by His Excellency. Mr. Cardwell said that he had "gathered" and "conjectured" that His Excellency and his Ministers had had a serious difference about the prisoners. He does not know the merits of it; but he pledges himself beforehand to support the Governor against his Ministers. Then he goes on to instruct the Governor that he, as the representative of the Imperial Government, and he alone—against the advice of his Ministers, if they differ from him—is the party to settle any question which may arise. It was against this position of Mr. Cardwell, as prejudging the case unheard, and as infringing the principle of Responsible Government, that Ministers did, and do protest. They have made no protest against such an entirely different position as they find His Excellency taking up in Mr. Cardwell's behalf.

But these are not the only instances in His Excellency's despatch which prove that he has looked at the subject through some distorting medium. He appears to have misconstrued the acts of his Ministers as strangely as he has misinterpreted the intentions of Mr. Cardwell. The tenor of His Excellency's despatch exhibits everywhere a desire to build up a case against his Ministers. They find evidence of this both in the material allegations which he makes in such strong terms of inculpation, and also in the peculiar colouring in which he depicts their acts. For instance, His Excellency, alluding to the Suppression of Rebellion Act, says, "My Responsible Advisers had an Act passed through the local legislature," &c. It would hardly be supposed from this language that this Act was originally drafted at the express request of His Excellency, who himself indicated the Acts of the Imperial Parliament of 1798 and 1833 as those which he wished to be taken as the model. The Act which His Excellency says his Ministers "had passed by the local Legislature," was really the Governor's Act, and not his Ministers, who in framing it and "having it passed," merely carried out his urgent request, exactly according to the precedents which he selected. (Memoranda made at the time by the Colonial Treasurer and Attorney General prove this beyond a doubt, and are appended.) Again, His Excellency five or six times in succession, uses the expression that his Ministers "required him," or "required him virtually as their servant, to do illegal acts," of which he disapproved. These expressions convey an impression very different from the actual fact. Ministers never "required" His Excellency, much less "required him as their servant to do illegal acts." They never did anything more than is always done under Responsible Government: they simply advised His Excellency to do that which they believed to be right: and so far from "requiring him to act as their servant," they in very many (they fear in too many) instances gave way to him when he declined their advice, or passed it over without acting upon it. For instance, on the 5th April last, they advised His Excellency to have all the prisoners tried under the provisions of the Act above referred to, which had been passed at his own request. He refused to have it done, on which Ministers deferentially acquiesced, and there this matter ended. So also the relaxation of the confinement of the prisoners in the hulk by their liberation on the island of Kawau, His Excellency's private estate, which has terminated so unfortunately, was entirely a concession to His Excellency, and the adoption of a proposal which emanated from him.* For months they have been endeavouring, without success, to get him to take the steps necessary to enable them to keep faith with the Military Settlers, by providing land for their farms in Waikato, which still remains undone. These, and innumerable other instances which might be given, savour very little of the dictatorial temper which his Excellency imputes to his Ministers, when he complains that they "required him virtually as their servant to carry out illegal acts." But even if there were any foundation for such allegation, which they entirely deny, His Excellency had an easy remedy in his hands, (that indicated by His Grace the Duke of Newcastle), an appeal to the Assembly or a change of his Ministry: the latter a step which Ministers on more than one occasion offered His Excellency every facility for accomplishing.

Ministers now approach that part of His Excellency's despatch which is of the greatest importance to them personally—the sweeping charges made by His Excellency as to the manner in which the

*Note. See Appendix B