

vacancy in the seat of Mr. Moorhouse in the House of Representatives, and of the error which I pointed out in my letter No. 1,405, of the 6th ultimo, in stating in that address the vacancy to have occurred for the Electoral District of Westland, which no longer exists.

The constitutional objection which, while you admit the error, you make to the mode of its being pointed out, seems, so far as I can gather your meaning, to consist in the fact that the letter to you was not written by the Governor but by myself, and you base that objection on the ground that in "The Elections Writs Act, 1858," the Governor "is most distinctly indicated as the officer of the Colony with whom the Speaker of the House of Representatives is to communicate, and no doubt with the very evident intention of preserving the Legislature from the appearance even of that Executive interference which in all British constitutional arrangements has been so jealously guarded against."

I cannot understand the force of this objection in a constitutional point of view, and I must dissent from the inference on which apparently it is based. The Governor is the Executive, and any action taken by him independently of his Ministers, in reference to the address in question, as in other matters, is unconstitutional. Ministers, in that capacity, represent equally the confidence of the Crown and of the two Houses of the Legislature, and any attempt—were it ever made—to place in the Crown a power irrespective of responsible advice, would certainly conflict with British constitutional arrangements. In this instance, where a fatal error occurred in an address of the Speaker stating a vacancy in the House of Representatives, the Governor would, if I correctly apprehend your argument, be required either to issue an illegal writ, or personally, without responsible advice, to enter into a correspondence, possibly a controversy, with the Speaker. Such a course would not obviate the action of the Executive in such matters, but on the contrary, as the Governor is himself the Executive, he would be in such a case acting purely in an irresponsible Executive capacity, instead of one responsible to the Legislature.

In any Act of Parliament in the United Kingdom, as in New Zealand, in which the Queen or the Governor is empowered to do some Executive act, that power is exercised, in accordance with constitutional usage, on the advice of the Ministers of the Crown, although the constitutional usage in this respect has never yet been defined by legislative enactment.

Moreover, as the Governor cannot constitutionally act in any matter without the advice of his Ministers, so the fact of an address being sent direct to the Governor, in no way relieves Ministers from the responsibility of giving advice, as all public documents of whatever kind which may happen to be addressed to the Governor, are uniformly transmitted by him without remark to his Ministers, who make such reply as the subject may require.

I am unable, either, to admit that I committed any error in form in writing to you with reference to your address to the Governor. It has never been the custom for Governors to enter into direct official correspondence with the Speaker of either House of the Legislature. And I may observe that I have acknowledged the receipt of addresses from you notifying vacancies, in order that an accurate record of their receipt might be established, although the law does not require that they should be acknowledged.

The Hon. the Speaker, House of Representatives.

I have, &c.,
E. W. STAFFORD.

No. 5.

Copy of a Letter from the Hon. Sir D. MONRO to the Hon. E. W. STAFFORD.

SIR,—

Nelson, 10th January, 1868.

I have the honor to acknowledge by to-day's post the receipt of your letter of the 7th January, in reply to mine of the 10th December. I will not pretend to follow you into the interesting and important subject of the position of the Governor of a British Colony in which the system of what is called "Responsible Government" prevails. But as I see that you and I look at the question immediately before us from very different points of view, and as very probably this arises from the imperfect explanation of my meaning given in my former letter, I will now endeavour to make it more clear. I observe that we both regard the Governor as a Ministerial officer, whose duty it is according to law to do certain things upon our advice. In your view of the case, the Governor is to cause a writ to be issued upon being advised by his Responsible Advisers that he should do so. In my view of the case, the law has remitted this duty to the Speaker of the House of Representatives. For the purpose of declaring that a vacancy exists I hold myself to be the Governor's responsible adviser, and I regard his action in the matter when a vacancy has been reported to him as analogous to that which is performed in England by the clerk of the Crown in Chancery. As to the usual practice of Government and the relations between the Governor and his Responsible Advisers in the conduct of business, I do not doubt for one instant that you have stated it with perfect accuracy. But, for my purpose, it is not in the least necessary that I should know anything about it. I know nothing but my duty under certain circumstances to make an official communication to the Governor; and when I have done that, I expect the Governor to perform an Executive act. The responsibility of the matter is with me; and for its proper discharge I am accountable to the House of Representatives.

In reply to my objection to Executive interference in the elections for the Legislature you observe that after all "the Governor is the Executive." You will perhaps pardon my reminding you that while it is perfectly true that the Governor is the chief Executive officer of the Colony, he nevertheless occupies a very different position from that of the ordinary Responsible Minister. In the first place the Governor is not only an Executive officer but he is also a branch of the Legislature. But in the second place (and this as regards the question immediately before us is the more important point) the Governor is a permanent officer, responsible to an authority outside the Colony, not subject to be displaced by a vote of the Legislature, and consequently free from all suspicion of party influences or bearings. And I have no doubt, as I said in my former letter, that these considerations were present to the mind of the Legislature when the Elections Writs Act was passed, and that they constituted the