

1877.

NEW ZEALAND.

DISSOLUTION OF PARLIAMENT

(MEMORANDA RESPECTING A).

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

MEMORANDUM FOR HIS EXCELLENCY.

MINISTERS respectfully present their compliments to His Excellency; and, in obedience to his desire that they should put into writing their views on the subject of a Dissolution, beg to submit that the state of Parties is such that, in their opinion, a Dissolution of the House of Representatives is urgently required, and they have the honor to advise His Excellency to grant such a Dissolution.

2. The following amongst other considerations have weighed with Ministers in coming to the conclusion to tender this advice; and Ministers desire to state those considerations, in order that His Excellency may be the better enabled to understand the circumstances in which the colony is placed:—

(1.) The present House was elected upon a distinct question, that of the Abolition of the Provinces. Since the settlement of that question, no clearly-defined party lines have been kept.

(2.) The present Ministry was not in power at the time of the General Election.

(3.) The Ministry came into office in consequence of the vote of the House on the following motion—"That the Government does not possess the confidence of the House." This vote was taken on October 8th, the numbers being—Ayes, 42; noes, 38.

(4.) The day on which Ministers entered office was the 13th October. On the 24th October, before Ministers had had sufficient time to prepare and make to the House a statement of their financial and general policy, the following notice of motion was given by Major Atkinson—"That this House has no confidence in the Government;" and when this motion was proposed, an amendment was moved by Mr. Reynolds, "That as the Government have not yet declared their policy, this House declines in the meantime to entertain the question of 'Confidence' or 'No confidence' in the Ministry." On the 6th November, a vote was taken on the motion; and the numbers being—Ayes, 39, noes, 39, Mr. Speaker gave his voice with the Noes. The amendment was negatived on the voices.

(5.) On November 7th, the Government intimated to the House their belief that the business could be brought to a close about November 16th, and that the prorogation could then take place during the ensuing week. Immediately after this intimation, Major Atkinson gave notice of another want-of-confidence motion, as follows:—"That this House has now no confidence in the Government." There has not yet been a vote upon this motion.

3. His Excellency will see from this statement, that several members of the House have, within about four weeks, recorded their want of confidence in each of two Administrations, namely, the late one, and the one now holding office.

4. Ministers believe that upon the single ground that they were not in power at the time of the General Election, they have a claim to a Dissolution, on their advice to dissolve the House being tendered to His Excellency.

5. The unsatisfactory state of the Public Business before the House, after a Session of nearly four months, might also be urged as sufficient of itself to warrant a Dissolution.

6. But, in addition, expressions of opinion received from all parts of the country lead Ministers to believe that, in the event of a Dissolution being granted to them, they will be enabled to carry on the business of the country with a large working majority.

7. The continuance of Ministers in office would also, in their belief, based on assurances they have received from many leading Natives, enable them to make progress towards bringing to an end the long-continued isolation of a large and very powerful section of the Native population. Three of the four Maori members in the House support the present Government; and, a few days ago, the

fourth stated in the House, that he had received from his constituents earnest requests that he would vote with the Government. There is, therefore, every reason for supposing that the great mass of the Native population support the present Government.

8. The state of the finances of the country renders necessary a complete review of our financial position; and the people will have to consider whether they prefer to submit to considerable sacrifices, or to have new burdens placed upon them. Questions affecting the representation of the people, as well as other questions of great importance, must also be dealt with. An appeal to the constituencies appears, therefore, constitutional, as well as just and necessary.

9. Ministers take the liberty of enclosing, for His Excellency's perusal, precedents and opinions which support them in the recommendation they now make.

Wellington, November 14th 1877.

G. GREY.

[Enclosures.]

PRECEDENTS, ETC.

In 1859, Lord Derby advised an appeal on personal grounds, characterizing the intended Dissolution as an "appeal to the country on our personal position." Lord Palmerston [leader of the Opposition] admitted that "the Government may say that the question put to the country is, whether it has entire confidence in them, or whether it prefers any other combination of men."—*Todd*, "*Parliamentary Government in England*," vol. 1, p. 156.

When the Crown, upon the advice of Ministers, decides to exercise the prerogative of Dissolution, the House of Commons cannot refuse supplies without incurring the reproach of faction.—*Todd*, vol. 2, p. 406.

The rule now well established is, that the Royal prerogative of dissolving Parliament is to be exercised in conformity with the advice of the Ministers of the Crown.—*Cox*, "*Institutions of the English Government*," p. 58.

The precedent of 1784, therefore, establishes this rule of conduct—that if the Ministers chosen by the Crown do not possess the confidence of the House of Commons, they may advise an appeal to the people, with whom rests the ultimate decision. This course has been followed in 1807, in 1831, in 1834, and in 1841.—*Lord John Russell*: *Quoted by Cox*, "*Institutions*," &c., p. 59.

The Queen can hardly now refuse a defeated Minister the chance of a Dissolution, any more than she can dissolve in the time of an undefeated one, and without his consent.—*Bagehot*, "*English Constitution*," p. 287.

Of late years, the most frequent cause of Dissolution has been the peculiar condition of the House of Commons, &c., &c.—*Hearn*, p. 158.

Practically, it had been held to be a constitutional right of a Ministry, upon taking office, to advise the Crown to dissolve a Parliament elected under the influence of its political opponents.—*Mr. Disraeli*.

The right of a Ministry to demand a Dissolution, is held with us to depend rather upon the circumstances under which the Parliament was elected, and the length of time it has lasted. If a Ministry, for instance, is defeated in a Parliament elected during its tenure of office, it is rarely justified in asking for a Dissolution; but if the Parliament was elected under its opponents, a Ministry is generally understood to have a claim to appeal to the country. The Royal authority is exercised rather to ensure general fair-play between parties, than to estimate the importance of the questions at issue.—*The Times*, March 23, 1877 (with respect to Sir William Stawell's refusal of a Dissolution to the Berry Ministry).

The general result of the controversy has been, there is a strong feeling against conditional Dissolutions. So strong is this feeling now in Parliament, that it would seem that a conditional promise of Dissolution, so far from assisting Supply, is the surest method of intercepting it.—*Sydney Morning Herald*, September, 1877.

I am accordingly now prepared to act upon the advice tendered by you in that minute, namely, to dissolve the present Parliament forthwith, whether Supply be granted or not.—*Minute by the Governor of New South Wales*, September 27, 1877.

When Mr. Pitt was appointed Prime Minister by George III. in 1783, in the face of a hostile majority in the House of Commons, he braved the fierce opposition with which he was encountered, and disregarded the factious obstructions of his foes, until he was in a position to dissolve Parliament and appeal to the people. Adverting, nearly twenty years afterwards, to the conduct of the House of Commons upon this occasion, Mr. Pitt declared that amidst all the violence which characterized the proceedings of the House at the time, the "general principle" of the sole right of the King to nominate his Ministers, had never been attempted to be denied in the abstract. The hostility of the House to Mr. Pitt arose, according to Sir Robert Peel, from a suspicion that he owed his appointment to unconstitutional motives: that is to say, to the exercise of secret influence, by means of which it was notorious that the previous Administration had been overthrown. But Mr. Pitt took his stand upon the principle that it was irregular for the House to endeavour to control the prerogative of the Crown

in the choice of its Ministers, by denouncing them without waiting to see their acts. In 1801, after the retirement of Mr. Pitt from office, and the appointment of Mr. Addington to the Premiership, an arrangement which was not satisfactory to Parliament, Mr. Pitt expressly claimed for the King, "the sole right of nominating his Ministers," and contended "that the House had no right to form any resolution till their conduct came to be judged of by the acts of their administration." He asserted, moreover, that the new Ministers were entitled, at the outset, to "a constitutional confidence"; in other words, "that unless some good reason were assigned to the contrary, the House was bound, by the best principles of policy, as well as by the true spirit of the Constitution, to wait to see the conduct of the Ministers of the Crown, before they should withhold their confidence." The House of Commons acquiesced in this reasoning, and refrained from any attempt at disturbing the new Ministry.—*Todd, vol. 1., p. 212.*

Ministers sustained very severe defeats in the new House; nevertheless, Sir R. Peel refused to resign, saying, "I hold there is nothing unconstitutional, in the post I fill, and in the fulfilment of my duty, to persevere in the discharge of those duties to which my Sovereign has called me, in defiance of the majority that is against me upon any abstract question, &c. I will perform my duty until the House shall, by its vote, refuse its sanction to some measure of importance which I think necessary to submit to its consideration."—*Todd, vol. 1, p. 214.*

No. 2.

MEMORANDUM from His EXCELLENCY the GOVERNOR to the Hon. Sir GEORGE GREY, K.C.B.

THE Governor has received the Memorandum from Sir George Grey, in which he tenders to him the advice of Ministers that he should dissolve the present Parliament, setting forth, at the same time, the grounds upon which that advice is tendered.

The Governor has carefully considered the advice, and the reasons given by the Government, and he is of opinion that the Government are hardly in a position at present to press for a Dissolution.

Sir George Grey informs the Governor that on the 8th of October, Major Atkinson's Government were defeated on a vote of want of confidence, by 42 against 38; that on the 13th of October, the present Government entered into office, and that on the 24th of October, Major Atkinson moved, "That this House has no confidence in the Government;" that on a division the numbers were 39 to 39, and that the motion was negatived by the casting vote of the Speaker.

The conclusion that the Governor would draw from this statement is, that while Major Atkinson's Government were undoubtedly defeated, the Government as at present constituted have never from the first commanded a majority of the House; because a vote of want of confidence which is only defeated by the casting vote of the Speaker can hardly be taken as an expression of confidence on the part of the House, as the vote of the Speaker is, according to Parliamentary rule, always given in such a manner as not to preclude the House from reconsidering the question.

The Governor would point out that the fact alluded to by Sir George Grey in his Memorandum that certain members have voted both against Major Atkinson's Government and also against the present Government, would simply show that while those gentlemen were dissatisfied with the late Government, they were equally dissatisfied with the one which succeeded it; but it is quite possible that had other combinations been formed, those gentlemen might have had confidence in the Government, and the subsequent events might have been very different, as it by no means follows that because a member expresses his want of confidence in one Government, that he is necessarily bound to give his confidence to the next.

The only desire of the Governor is to secure a Government, no matter how constituted, which can command the confidence of a majority of the representatives of the people of New Zealand.

The prerogative of the Crown to dissolve Parliament at any time, is undoubted, and it is a prerogative which requires to be exercised with great judgment, and it is an act in which the Crown is called upon to use, to some extent at any rate, its own discretion; and if such is the case with the Sovereign, who is not responsible to any one, more especially must it be so in the case of a Governor, who is directly responsible to the Crown for his exercise of the prerogative.

The Governor is of opinion that a Dissolution would be undesirable at the present time, for the following reasons, namely:—

1. Because he is of opinion that the difficulties which have occurred may yet be solved without a Dissolution.

2. The present Parliament is only in its second Session, and the Governor has been informed, both by Major Atkinson and Sir George Grey, that it is their intention, next year, to introduce a Bill for the redistribution of the representation of the country. Should such a Bill pass, it would almost necessarily entail a fresh Dissolution next year; and it is manifest that it would be most undesirable that the country should be put to the trouble and expense of two Dissolutions in so short a period, if it can possibly be avoided.

3. The present season of the year is the one at which it would be most inconvenient to the country that a Dissolution should take place, as the rural districts at any rate are fully occupied by harvest and shearing operations.

4. The Government have not informed the Governor that there is any great measure or principle in discussion in the House which could be submitted for the consideration of the constituencies; and certainly, as far as the Governor is aware, no such measure or principle is at present known to the public.

5. The Government inform the Governor that in their opinion a Dissolution would secure to them a large working-majority, but they have produced no evidence in support of that opinion.

6. As far as the Governor is aware, no Supply has been granted. The Governor is perfectly alive to the fact that this is not a question which in England needs consideration, because in England,

Parliament has uniformly voted the Supplies necessary for an appeal to the country. The Governor, however, knows as a fact that this course has not been uniformly adopted in the colonies; and he is therefore of opinion that it is a question which must enter into his consideration, in deciding upon a Dissolution. In England, there is also the further safeguard, in the moral certainty that no Minister would venture to advise the Sovereign to dissolve Parliament, after Parliament had refused to vote the Supplies necessary to carrying on the service of the country during the time required for the election and the re-assembling of Parliament.

The Governor is deprived of this further security, because Sir George Grey distinctly informed him, in conversation on the 26th of October, that if he granted him a Dissolution he would dissolve whether Supply were granted or not.

The Governor, however, cannot take upon himself the responsibility of either sanctioning the expenditure of public money which has not been voted by Parliament, or of throwing the whole country into confusion, and causing a large amount of public and individual inconvenience and distress, by withholding for two or three months the payments which are justly due by the country, until at any rate he has exhausted every other expedient.

The Governor must point out to the Government that this was the course adopted by the Governor of New South Wales, in the case which is quoted by them, as he did not grant the unqualified Dissolution until every other means had failed.

For these reasons, the Governor is not prepared to grant a Dissolution at present. If, however, Sir George Grey can satisfy him that Parliament has granted even three months' Supply, he will be happy to reconsider his determination.

In conclusion, the Governor would thank the Government for the trouble which they have taken in furnishing him with authorities upon the subject; but after careful consideration, it does not appear to him that there is anything in them which would induce him to think that it is his duty to modify the decision he has expressed.

Government House, Wellington, 15th November, 1877.

NORMANBY.

No. 3.

MEMORANDUM for HIS EXCELLENCY.

SIR GEORGE GREY presents his respectful compliments to the Marquis of Normanby.

2. The Governor, in his Memorandum of the 15th instant, tells Sir George Grey that, in conversation on the 26th October, he distinctly informed the Governor that if the Governor granted a Dissolution, Sir George Grey would dissolve, whether Supplies were voted or not.

3. The Governor misunderstood Sir George Grey; and he will endeavour to remove that misunderstanding.

4. The Governor having several times pressed Sir George Grey to inform him whether, if a Dissolution were granted, he would dissolve, even if Supplies were not voted by Parliament, Sir George Grey repeatedly answered that he could not believe such a case would arise as that Parliament would force the country into the position of distress which would be inevitable, if a Dissolution took place without Supplies having been granted. The Governor, to Sir George Grey's regret, still pressed the question, in such a manner as to force Sir George Grey to an answer, which he gave, to the following effect:—That in his belief, if a statesman found himself placed in so cruel a position as that of having to decide whether a Dissolution should take place without Supplies having been granted, he presumed that the question to be solved would be, Whether the people of the country on whom the alternative was forced would consider a Dissolution so essential to their interests, that they would prefer submitting to the temporary evils which must result from a stoppage of Supplies, and to the direct inconveniences which, from that cause, they must undergo, rather than lose the opportunity of securing some object which they greatly desired; and that he also presumed a statesman who had to determine such a question, would decide in accordance with what he sincerely believed to be the popular will, running the risk, on one hand, of incurring great and deserved odium if he made a mistake, because, on the other hand, he knew he might deservedly obtain the applause of his countrymen, for having resolutely followed that course which their wishes and their interests alike demanded. Sir George Grey believes he added, that if in this case such a question arose for solution (which, however, he was of opinion could not happen), he would not fail to do his duty, whatever he might judge that to be. He may, indeed, have said that in the present, or any similar, instance, if he felt satisfied that his duty demanded it, he would dissolve without Supplies; but he throughout the conversation unfalteringly maintained that it was, in his belief, impossible that such a case as the Governor put could arise in this country.

5. Sir George Grey ventures to recall to the Governor's mind the circumstances which led to this expression of opinion on his part.

6. The Governor informed Sir George Grey that, from communications with other Governors, he was aware that with some of them the opinion prevailed that, contrary to the practice in England, a Dissolution ought not, in these colonies, to be granted without Supplies being previously voted; because the same reliance could not be placed on colonial as on English statesmen, that they would not incur an imprudent risk. The Governor twice gave the assurance that he made these observations without intending any personal reflection upon Sir George Grey. To them, Sir George Grey replied, that he was determined, so far as the matter rested upon himself, to maintain that the right of a colonial statesman to a Dissolution was the same as that of an English statesman when a Dissolution was asked for from Her Majesty: that he could not admit that there was any inferiority, either in ability or in patriotism, among our colonial statesmen as compared with those of Great Britain; and that he therefore adhered to what he believed to be his right, namely, that if a Dissolution was given in this country, it should be as unfettered as it was when granted in Great Britain.

7. It was after this conversation that the Governor pressed so repeatedly upon Sir George Grey—he must say, even to his regret—the question, If a Dissolution was accorded to him, would he dissolve whether Supply was granted or not? That question, Sir George Grey submits, was one to which, if required to give an answer, he could not with propriety have given any other answer than that which he gave to the Governor. Indeed, he ventured to add, when once replying, that, in his belief, the Governor had nothing to do with this matter, because the decision ought to rest with the Ministers, the Parliament, and the people; and that the Governor should rely that they would decide in the manner which would be most accordant with the interests of the country and the desire of its inhabitants.

Wellington, November 16, 1877.

G. GREY.

No. 4.

MEMORANDUM to Sir GEORGE GREY, K.C.B., &c.

THE Governor presents his compliments to Sir George Grey, and begs to acknowledge the receipt of his Memorandum of this day's date.

The Governor regrets extremely that there should be the slightest discrepancy between the impression left on his own mind and that of Sir George Grey, as regards the conversation which took place on the 26th of October; and after Sir George Grey's explanation, he is, of course, quite ready to admit that he must have misunderstood what Sir George Grey said. Notwithstanding this, the Governor must still adhere to the decision he has expressed as regards a Dissolution.

Government House, Wellington, 16th November, 1877.

NORMANBY.

No. 5.

MEMORANDUM for HIS EXCELLENCY.

MINISTERS present their respectful compliments to His Excellency.

2. The Governor will find from the enclosed Memorandum by the Secretary to the Treasury, that large sums fall due as interest in London between this date and the 1st of February next. Those sums amount in all to £326,247. The Secretary to the Treasury points out that no provision has been made for their payment; and that unless steps are immediately taken to provide the funds necessary for that purpose, serious difficulties must ensue.

3. Ministers have also the honor to enclose another Memorandum by the Secretary to the Treasury, showing that the funds available for Public Works will be exhausted in five or six weeks from the present date. If the Public Works now being carried on are abruptly stopped at that time, disaster and distress of the most severe kind must necessarily follow.

4. In the belief of Ministers, if it were known that a Dissolution would, if necessary, shortly take place, Parliament would, before being dissolved, unhesitatingly do all that is needed to enable funds to be promptly provided for paying interest and for continuing Public Works.

5. On the contrary, if the two Parties in Parliament are left to contend for some time longer, in order that the Governor may ascertain if he cannot even yet secure a Government such as he desires to obtain, it is the belief of Ministers that the disasters they have pointed out cannot be averted.

6. Ministers have carefully considered His Excellency's Memorandum of the 15th instant, addressed to the Premier, but they cannot find in that Memorandum any reasons which seem to them to be sufficient to justify the refusal of a Dissolution under the circumstances now stated.

7. The Governor, in that Memorandum, says that he knows as a fact that the course uniformly adopted in England, of voting the Supplies necessary for an appeal to the country, has not been uniformly adopted in the colonies; and that he is, therefore, of opinion that the question of Supply must enter into his consideration in deciding upon a Dissolution.

8. The Governor in this seems to assume that the Queen's subjects have in some colonies exercised their constitutional rights in a manner prejudicial to their own interests. Whether they have done so or not, Ministers cannot say, for they have not all the facts before them. Probably, the colonies alluded to knew what their interests required, and did that which circumstances rendered necessary: but even admitting that they acted unwisely, Ministers feel certain that such action would not justify His Excellency in the course he proposes to take; for the fact of other colonies having exercised their constitutional rights in such a manner as to prejudice their interests, would be no justification for depriving the people of New Zealand of their undoubted constitutional rights, lest they should do the same. Their Governor is simply to do his duty as a Constitutional Ruler. He has no power to take from the people their rights: he should leave them fairly to exercise those rights. If they injure themselves, the fault is theirs: he is not to blame. But in the case of the people of New Zealand, the Governor need be under no apprehension. They understand their own rights and interests, and are quite capable of taking care of themselves.

9. Ministers venture to think that the Governor is mistaken in believing that the power of dissolving the New Zealand Parliament is a prerogative of the Crown, and that the Governor of this colony is directly responsible to the Crown for his exercise of that prerogative. It appears from the 44th section of the Constitution Act, that the Governor derives that power from a law and not from Her Majesty—that the Governor is really responsible to the law for the exercise of that power. A Superintendent of a Province might as justly have claimed that he was responsible to the Crown for the exercise of the power of proroguing his Provincial Council, instead of admitting that he derived that power from the Constitution Act.

10. Ministers trust that, upon reconsideration, the Governor will see that he is only responsible to the Crown in this matter, in the sense in which he is responsible to the Crown for all his acts; that

the power of dissolving Parliament is conferred upon him by the Constitution Act; and that this is, therefore, one of those questions on which, according to Constitutional Law, the Governor should act on the advice of his Ministers.

11. In one part of his Memorandum of the 15th instant, the Governor states that he will reconsider his determination to refuse a Dissolution, if Parliament will grant a Supply for even three months. To this, Ministers reply that they maintain that the people of New Zealand have the same rights as the people of Great Britain—that the House of Representatives here represents the people of this colony, and their rights, in the same manner that the House of Commons represents the people of Great Britain and their rights; and that the New Zealand Ministers, selected from the General Assembly, have the same rights here that British Ministers have in England.

12. His Excellency's Advisers must, therefore, respectfully maintain their right to a Dissolution, unfettered by any condition of Supplies being granted; and they very respectfully decline to enter into any compromise upon this subject for three months, or for any other period. They contend that they are constitutionally entitled to a Dissolution, and that, too, upon the same terms as it would be given to Ministers at Home.

G. GREY.

Wellington, November 19th, 1877.

Enclosure 1.

MEMORANDA for the Hon. the COLONIAL TREASURER.

Treasury, 23rd October, 1877.

ON the 15th instant I had the honor to point out, that, after providing for all orders in favour of the Agent-General to the 13th instant, and for all Interest and Sinking Fund due in London to the 15th January inclusive, the whole of the moneys in London, including the proceeds of the £800,000 Imperial Guaranteed Debentures (taken at their par value) would be exhausted, and there would be a deficit of £6,883 15s. 1d. on the last-named date to be provided for.

The remittances for Public Works material made by the mail of the 20th will have the effect of enlarging this deficit to the sum of £33,271 13s. 9d.; and believing that the matter is becoming urgent, I again beg to call attention to the state of the account.

The Treasury accounts at this date show a nominal overdraft of	£195,933	16	8
This amount has been drawn against the balance of the Guaranteed Debentures in the hands of the Loan Agents, available for hypothecation	375,000	0	0

Balance	£179,066	3	4
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This balance represents the available funds in England after charging all Interest and Sinking Fund due in London to date, and all orders on the Bank transmitted to the Agent-General.

The Interest and Sinking Fund falling due between this date and the 16th January, 1878, is as follows:—

31st October	£5,485	7	1
1st November	3,105	0	0
1st November	12,500	0	0
1st December	4,000	0	0
15th December	13,196	0	0
31st December	18,915	0	0
15th January	155,136	10	0
	212,337	17	1

Deficit	£33,271	13	9
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Funds will have to be provided to meet this deficit, and for any orders on the Bank in favour of the Agent-General which it may be necessary to transmit to England from this date.

A further sum of £135,000 is due in London for interest on the 1st February.

C. T. BATKIN, Secretary to Treasury.

Treasury, 30th October, 1877.

REFERRING to my memorandum of the 23rd instant, relative to the position of the New Zealand Public Account, London, in which I pointed out that the amount remaining to be raised on the guaranteed debentures would be insufficient, by a sum of £33,271 13s. 9d., to provide for the interest falling due in London on the 15th January, and that a further sum of £135,000 will be payable on the 1st February following, I have again to call attention to the matter, and to point out that, if provision for these payments is to be made by remittance from the colony, such remittance must be made by the mail leaving on the 16th November proximo.

C. T. BATKIN, Secretary to Treasury.

Enclosure 2.

MEMORANDUM for the Hon. the COLONIAL TREASURER.

THE Public Works Account now shows a nominal overdraft of	£226,496	18	2
Against which there is available the amount of the Guaranteed Debentures yet in hand	375,000	0	0

Giving, as the available Ways and Means of the Public Works Account to-day	148,503	1	10
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The expenditure on Public Works Account for the past six weeks has been at the rate of about £27,000 a week; and at that rate, the balance of £148,000, above referred to, will be exhausted in five or six weeks.

As you are aware, the Consolidated Fund is indebted to the Public Works Account for an advance of £300,000; but I see no probability of the Consolidated Fund being in a position to repay the amount at present.

Treasury, Wellington, November 13th, 1877.

C. T. BATKIN.

No. 6.

MEMORANDUM for HIS EXCELLENCY.

SIR GEORGE GREY presents his respectful compliments to the Marquis of Normanby, and begs to call his attention to the following passage in his Memorandum of the 15th instant:—"The only desire of the Governor is to secure a Government, no matter how constituted, which can command the confidence of a majority of the representatives of the people of New Zealand."

2. Possibly the Governor has not perceived that the effect of the principle on which he proposes to act would be to destroy all well-defined lines of Party Government in New Zealand.

3. The design of the original framers of the Constitution Act was to remove, as far as they could, all points of possible difference between the colony and the mother country; and, with that view, the power was left to the people of New Zealand of choosing the precise form under which their Executive Government should be carried on. The people, exercising the power thus granted to them, determined to adopt a Responsible and Party Government.

4. The effect of the principle upon which the Governor proposes to act would be, that there would no longer exist in the House of Representatives two Parties, each bent upon carrying out certain great principles. The House might become split into several Parties, each under a leader able to command a small following; and at any time a combination might take place between so many of those Parties as would secure a bare majority in the House of Representatives. Each of such Parties would, in order to secure such a combination, have to sacrifice, more or less completely, some of the principles or views upon which it was formed. There would be a risk of all great principles being lost sight of; and a series of coalitions might be effected, by a wrong abandonment of principles, without, in all probability, anything like unity in support of measures calculated to promote the general interests of the community. The people of New Zealand would be virtually deprived of that Party Government which they deliberately adopted; and they would practically, for long periods of time, lose the most valuable right of forcing the enactment of great measures they desired to obtain, because the necessity of an appeal to the constituencies in such cases would be in a large degree done away with.

5. In fact, in Sir George Grey's belief, a form of Government would, under such a system, be set up, which has never hitherto existed in any country occupied by an English-speaking race: and, with all possible respect for the Governor, Sir George Grey deems it his duty to submit these views for His Excellency's consideration.

Wellington, November 20th, 1877.

G. GREY.

No. 7.

MEMORANDUM for the Hon. Sir GEORGE GREY, K.C.B., &c.

THE Governor presents his compliments to Sir George Grey, and begs to acknowledge the receipt of his Memorandum dated the 19th instant.

This Memorandum from Sir George Grey contains subjects for serious consideration, and the Governor must take time to consider it. He would, however, in the meantime, point out that the 44th section of the Constitution Act enacts, "and the Governor may at his pleasure prorogue or dissolve the General Assembly." The Constitution Act makes no mention whatever of an Executive Council.

The power to appoint an Executive Council is given by Her Majesty's Commission, by which Commission, clause 9, it is also directed, "and we do further authorize and empower you to exercise all powers lawfully belonging to us in respect of the summoning, proroguing, or dissolving any Legislative Body now or hereafter established within our said colony."

By the Royal Instructions, the Governor is further directed, in clause 8, "and we do authorize you in your discretion, and if it shall in any case appear right, to act in the exercise of the power committed to you by our said Commission, in opposition to the advice which may in any such case be given to you by the members of our said Executive Council: provided, nevertheless, that in any such case you do fully report to us by the first convenient opportunity any such proceeding, with the grounds and reasons thereof."

Under these circumstances, the Governor cannot admit that Ministers have an unqualified right to a Dissolution when the Governor may consider it undesirable or unnecessary.

Government House, Wellington, 20th November, 1877.

NORMANBY.

No. 8.

MEMORANDUM for HIS EXCELLENCY.

MINISTERS present their respectful compliments to the Marquis of Normanby. They venture to think that the Governor is in error when he contends that power to dissolve the New Zealand Parliament is conferred upon him by the clause which he quotes from his Commission, namely, "And we do further

“authorize and empower you to exercise all powers lawfully belonging to us in respect of the summoning, proroguing, or dissolving any Legislative Body now or hereafter established within our said colony.” This clause is inserted in all Commissions to British Governors. In many colonies, Her Majesty has the lawful power to summon, prorogue, or dissolve the Legislative Body. In such cases, the clause is operative. It formerly was so in New Zealand; but since a Constitution Act was granted to this colony, the Governor has derived solely from that Act his power of summoning, proroguing, or dissolving the General Assembly.

2. Again, Ministers venture to think that the Governor has fallen into a mistake regarding the powers conferred upon him, relative to the Executive Council, by the Royal Instructions.

3. In England, there are two bodies, the Privy Council and the Cabinet.

4. In New Zealand, there are also two bodies, the Executive Council and the Cabinet.

5. The framers of the New Zealand Constitution Act found an Executive Council in existence in this colony; and, recognizing it as a probably useful institution, left it untouched by that Act.

6. Since the Constitution Act has been in force, the General Assembly, admitting the utility of the Executive Council, has passed various laws giving the Governor in Council (that is, acting with the advice of that body) large powers over various subjects. The General Assembly was well aware that the Governor could, in virtue of his Commission and Instructions, refuse to act in conformity with the advice of his Executive Council, or could act in opposition to the advice given to him by the members of that body. In this respect, the Executive Council differs greatly from the Cabinet; and the clause in his Instructions to which the Governor alludes, seems to form a great safeguard against the Governor being compelled, by a Party having a temporary majority in the Assembly, to acquiesce in any illegal grants of public money or lands, or, indeed, in any illegal or even questionable acts. Great powers of dealing with public moneys and lands were entrusted to the Executive Council, which also had committed to it, by the Crown, the power of advising the Governor, subject to the above-named Instructions, regarding the exercise of certain prerogatives of the Crown.

7. The Cabinet is a totally different body. Its members are the Responsible Advisers, or Ministers, of the Governor. The Cabinet as a body exists by virtue of the Constitution Act: that is to say, in a compact between the General Assembly and the Crown, or its Representative, it was agreed that the form of the Executive Government in New Zealand should be that of a Responsible Government, conducted in the Assembly upon Party principles. Thus, both the power possessed by the Governor of dissolving the New Zealand Parliament, and the privileges possessed by his Responsible Advisers, are alike created by law—that is, by the Constitution Act.

8. Such being the case, Ministers still think that, on all ordinary occasions, the Governor would act constitutionally in taking the advice of his Responsible Advisers.

9. Ministers have felt it to be their duty to point out the mistakes into which they cannot but think the Governor has fallen; and they venture most respectfully to submit these remarks for his consideration.

Wellington, November 21st, 1877.

G. GREY.

No. 9.

MEMORANDUM to the Hon. Sir GEORGE GREY, K.C.B., &c.

THE Governor presents his compliments to Sir George Grey, and regrets that Ministers seem to have misunderstood the purport of his Memorandum of the 20th instant, as he referred to the powers given by the Constitution Act, as well as to those which he derives from Her Majesty's Commission.

The Governor feels bound respectfully, but at the same time distinctly, to inform Ministers that he must, for the future, decline to enter into any controversy or discussion with them, of a general or abstract character, regarding his constitutional position, his responsibilities, or his duties.

The Governor will on all occasions, when Ministers submit to him any particular matter or question affecting the Public Service, feel it his bounden duty to give to their advice his most attentive and favourable consideration; and should he deem it his duty at any time to act in opposition to their advice, he will be quite prepared to accept the responsibility which the act entails.

If the Governor commits any act which, in the opinion of Ministers, is illegal, unconstitutional, or wrong, they have an undoubted right to submit his conduct for the consideration and decision of the Crown; and the Governor is at all times bound to forward such complaints, through Her Majesty's Secretary of State for the Colonies, together with such explanation as he may consider necessary to make.

Government House, Wellington, 22nd November, 1877.

NORMANBY.

No. 10.

MEMORANDUM for HIS EXCELLENCY.

MINISTERS present their respectful compliments to the Marquis of Normanby.

2. Ministers acknowledge the receipt of the Governor's Memorandum of yesterday's date.

3. Ministers respectfully point out that the question of the Dissolution applied for by them was by His Excellency's directions made the subject of a correspondence.

4. Ministers desire to state that they did not regard the points raised by the Governor as being merely of a general or abstract character: they believed them to be practical points, influencing at the moment the Governor's decision on the great question, whether or not Her Majesty's subjects in the colonies have the same rights to Dissolutions of their Parliaments, as are enjoyed by the Queen's subjects in Great Britain.

5. Ministers believe that the assertion and maintenance of those rights, which they most respectfully claim, are essential to the good government of this country and the welfare of its inhabitants.

Wellington, November 23rd, 1877.

G. GREY.

No. 11.

MEMORANDUM for HIS EXCELLENCY.

SIR GEORGE GREY presents his respectful compliments to the Marquis of Normanby; and, adverting to His Excellency's Memorandum of the 20th instant, trusts that the Governor has now had sufficient time to give his consideration to the Ministerial Memorandum of the 19th instant, pressing upon His Excellency's attention their reasons for respectfully thinking that they could not find in his Memorandum of the 15th instant, reasons which appeared to them to justify the refusal of a Dissolution, under circumstances which existed here.

2. The delay in the settlement of this question adds greatly to the difficulties and embarrassments which Ministers have to meet, and is in many respects very injurious to them.

3. Sir George Grey, therefore, ventures to hope that His Excellency will as soon as possible transmit to Ministers his promised reply.

Wellington, November 26th, 1877.

G. GREY.

No. 12.

MEMORANDUM for the Hon. Sir GEORGE GREY, K.C.B.

THE GOVERNOR presents his compliments to Sir George Grey, and, in reply to his Memorandum of the 26th instant, in which he again presses the subject of a Dissolution upon him,

The Governor regrets very much that Ministers should feel that "the delay in the settlement of this question adds greatly to the difficulties and embarrassments which Ministers have to meet, and is in many respects injurious to them."

The Governor, however, taking as he does a very different view of his duties and responsibilities in regard to the exercise of the power of Dissolution, from that which is taken by Sir George Grey, sees no reason for altering the opinion he has expressed; and in conformity with that opinion, he does not consider that the circumstances have yet occurred which would justify him in granting a Dissolution.

The Governor by no means wishes to intimate that events may not take place which might necessitate a Dissolution; but he is of opinion that when those circumstances occur they should be clearly placed before him, in order that he may be able to form a deliberate judgment upon them.

The Governor has every reason for believing that the present session is fast drawing to a close. Were he now to grant a Dissolution, it would assume the character of an appeal from the present House of Representatives to the constituencies; and, according to all constitutional usage, the appeal should be made with the least possible delay, and the House should meet again almost immediately.

If, on the other hand, Sir George Grey only desires the promise of a Dissolution at some future period, the Governor cannot help feeling that the knowledge that such a promise had been given would be putting a pressure upon Parliament which might very possibly influence its proceedings; and he can be no party to any course which could have such a result, as he considers that it would be irregular and unconstitutional.

Government House, Wellington, 28th November, 1877.

NORMANBY.

No. 13.

MEMORANDUM for HIS EXCELLENCY.

MINISTERS present their respectful compliments to the Marquis of Normanby, and feel it their duty to offer the following observations on his Memorandum of November 28th:—

2. Ministers cannot think that if they had the same rights here regarding a Dissolution of Parliament as are enjoyed by the Queen's Ministers in England, any unconstitutional pressure would be put upon Parliament.

3. Ministers believe that without the existence of those rights in England, the Reform Bill and many other great measures could never have been carried, and the rights at present enjoyed by the people of Great Britain could not have been obtained.

4. Ministers have only asked, for themselves and the people of New Zealand, those rights which belong to the Ministers and people of England.

Wellington, December 6th, 1877.

G. GREY.

No. 14.

MEMORANDUM for the Hon. Sir GEORGE GREY, K.C.B.

THE GOVERNOR presents his compliments to Sir George Grey, and begs to acknowledge the receipt of his Memorandum of the 6th instant.

The Governor would point out that what he considered would be placing an unconstitutional pressure upon Parliament was, that he should promise a Dissolution at some future period when it might suit the Ministers to dissolve, the knowledge of which promise might influence the action of Parliament.

The Governor would further observe, that the allusion made by Sir George Grey to the Dissolution which took place in relation to the Reform Bill is entirely inapplicable, because in that case there was a great measure before the country, in which deep interest was taken, and which had been defeated in Parliament; and it was a direct appeal from Parliament to the people. The Governor is aware of no great measure which is before Parliament, and which would justify such an appeal.

The Governor believes that it is universally admitted by Constitutional authorities that frequent Dissolutions are to be avoided if possible, as they tend, as observed by Sir Robert Peel, "to blunt the edge of a great instrument given to the Crown for its protection:" and he does not believe that it is a legitimate exercise of the prerogative to resort to it when there is no great political question directly at issue between the two contending Parties, and simply in order to maintain in power the particular Ministers who happen to be in office. These views have been expressed in Parliament in England by many of the leading statesmen of the times, and the Governor believes they are the principles which should guide his conduct in the present instance.

The Governor in no way wishes to deny that Ministers in New Zealand have, in matters which do not affect Imperial interests, the same rights that Ministers possess in England; but the Governor does not believe that, under similar circumstances, a Minister in England would ask for a Dissolution.

Government House, Wellington, 6th December, 1877.

NORMANBY.

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