

No. 14.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 23.)

SIR,—

Downing Street, 19th February, 1851.

In acknowledging your Despatch No. 98, of the 20th September, in which you report the resignation of certain members of the Legislative Council of New Zealand, I will take the opportunity of adverting to your former Despatch No. 161, of the 30th November, 1849, in which you proposed the introduction of representative institutions into New Zealand in the beginning of present year.

2. I have as yet refrained from answering this despatch, not from any reluctance on the part of Her Majesty's Government to entertain the momentous question to which it relates, or from any distrust of your judgment in thus proposing the extension of free institutions at an earlier period than was before contemplated into the community over which you preside, but from a sense of the practical difficulties which oppose the immediate realisation of your views. Fully admitting the principles which you advocate, and also the force of your testimony to the fitness of the community of New Zealand for the proposed change, the manner of affecting it required serious consideration, not only from its own inherent difficulties, but because it could not be done without the authority of Parliament.

3. I therefore postponed my answer until it could be determined whether it was possible to submit any measure on the subject of the Constitution of New Zealand to Parliament during the present session. I must now inform you that, upon a full review of the various subjects which must necessarily be brought before the Legislature in the present session, Her Majesty's Government have come to the conclusion that it probably will not be in their power, without interfering with measures of more pressing urgency, to introduce in this session a Bill for determining the future constitution of the Government of New Zealand; since, from the experience of the discussions on the Bill for extending to the other Australian Colonies the Constitution already established in New South Wales, it is evident that the consideration of such a measure would necessarily occupy a very large portion of the public time.

4. These reasons, in addition to those already stated in my despatch of the 22nd December, 1849, have induced me to consent to the continued postponement of a more comprehensive measure; and I have felt the less difficulty in doing so, inasmuch as the powers with which you are already invested by the Suspending Act of 1848 enable you to introduce the representative principle, of your own authority, into the Legislatures of the provinces into which New Zealand is divided. If you think the time has arrived for the safe exercise of those powers I wish you to use them forthwith; for it would, in my opinion, be attended with much convenience that the Provincial Councils should be reconstituted on this basis, before the constitution of the general Legislature is altered.

5. The best model for these Provincial Councils, which must be regarded as temporary and subordinate institutions, will probably be attained by introducing a number of elective members exceeding the non-elective, but the proportions and the other details I leave to yourself.

6. I agree with you in thinking that hereafter, when the population of the colony shall have increased and the means of communication been improved, many of the subjects which must, for the present, be dealt with by these separate Legislatures, will be brought again with propriety under the control of the general Legislature, the Provincial Councils confining themselves ultimately to the discharge of duties similar to those which in Canada devolves on the District Councils.

7. I approve also of the change which you propose in paragraph 7 of your despatch of the 30th November, 1849, to introduce in the present constitution of the Provincial Councils as to the suspension of their Ordinances by the Governor-in-Chief; but this is a power which, from the nature of the subject, should be very sparingly exercised.

8. On the question of the further subdivision of New Zealand in general, or of New Munster, into provinces, I must necessarily rely in a great measure on your judgment. According to the best opinion which I am able at present to form, it is desirable that such subdivision should take place. The parties who are interested in the Settlement of Canterbury, and I believe also those who are concerned in Otago, are desirous of having those settlements erected into separate provinces; in which case Nelson would remain as now in connection with Wellington. But the decision as to the limits of these provinces I wish to remain with yourself.

9. This opinion, however, is not unconditional. I am not satisfied of the expediency of establishing in these smaller provinces Councils entirely nominated by the Crown, as you appear to suggest in your despatch of the 30th November, 1849. I think, on the contrary, that no new provinces should be constituted, unless the representative element can be introduced into its Councils. But, even with a very small population, this appears to me practicable.

10. In the next place, I agree in your opinion, as expressed in your despatch of the 22nd October, 1849, paragraph 20, that no new province should be constituted unless on the terms of supporting its own peculiar expenses and contributing its fair proportion to those general expenses, whatever they may be, which may be charged on the whole community of New Zealand.

11. In order to carry these views into effect, I have advised Her Majesty to make the necessary change in the Charter of 1846. The Act of 1848 suspending the Constitution, does not suspend that portion of the Act of 1846 which empowers the Queen to divide the Island into provinces or that portion which enables her to delegate to the Governor any portion of the powers which that Act confers upon her. You will therefore be empowered, in general terms, to constitute new provinces; and the Act of 1848 gives you sufficient authority (with the advice of the Legislative Council of New Zealand) to constitute Legislatures for such provinces.

12. To facilitate the same object, the Royal Instructions will also be altered in the manner which you recommend in your despatch of the 22nd October, 1849, as to the constitution of the Executive Council.

13. When the inhabitants of New Zealand are thus invested with the power of managing the affairs of the separate provinces by representative bodies, by which also they will be enabled to express