

12. I now proceed to the constitution of the General Assembly, in respect of which the principal deviation introduced by Her Majesty's Government from the scheme of their predecessors is that a Legislative Council of members nominated by the Crown is maintained, according to the ordinary model of colonial Governments, except that—as in Canada, to which a somewhat similar constitution was granted by Act of Parliament—their nomination is for life. I need not here enter into the particulars of the reasons for this change, which will be readily collected from the Parliamentary debates which have taken place on the subject.

13. The number of the Council is limited by a minimum only, in order that it may hereafter be expanded as the exigencies of the public service may from time to time require; but for the present it is proposed to limit it by your Instructions so as not to exceed fifteen. The Instructions will accordingly empower you to nominate not less than ten nor more than fifteen persons to the office of Legislative Councillor. And it is desirable, without waiting for those Instructions, you should at once proceed to make your selection, and report it immediately to Her Majesty's Government.

14. It has been thought upon the whole most convenient to leave it to the House of Representatives to make on its first meeting all the rules which may appear expedient for its own management, even to the appointment of a quorum for the conduct of business.

15. It has been the object of Parliament to give to the General Legislature thus constituted powers as extensive as it was possible to confer consistently with the maintenance of the prerogatives of the Crown. Accordingly there is no restriction on those powers introduced into the Act on which I think it necessary to make any observation, except the reservation of certain sums for specific services, ordinarily called a civil list; which reservation, however, by no means withdraws those services from the control of the Legislature, but only renders it necessary that this control should be exercised by way of permanent Act instead of annual appropriation, and, in certain instances, with the consent of the Crown. The extract which I annex from the despatch (Parliamentary Paper, "Australian Constitution," 4th February, 1851, pages 34 and 35), addressed by my predecessor to Sir Charles Fitzroy when transmitting the last Australian constitutional Act, will more fully explain my meaning.

16. In fixing the sum thus reserved, Her Majesty's Government have been guided by the information which you have yourself supplied. They have not thought it necessary to place the salary of more than one puisne Judge on this permanent footing. The sum defined as for the "establishment of the General Government" and that for "Native purposes" you are empowered to appropriate in such manner as you may yourself think fit, taking care to keep the Secretary of State fully informed of the details of such appropriations, as well as to render accounts of them in the manner prescribed by section 65.

17. The object of the provisions of sections 62 and 63, establishing a distinction between gross and net revenue, is to place the management of the revenue in New Zealand as nearly as possible on the same footing as in this country—namely, by reserving the collection of the revenue to the Executive. For the present the cost of the collection of Customs will be regulated and audited by the Lords Commissioners of the Treasury. But whenever the control of the Customs is handed over to the local authorities, as is gradually taking place in the neighbouring colonies, their Lordships will be able to delegate this power as far as needful to the authorities.

18. Her Majesty's Government, in framing the Constitution of New Zealand and submitting it to the decision of Parliament, determined not to except the control of the waste lands of the colony from the general powers conferred on its Legislature. Without entering into the discussions to which this subject has given rise, it is enough for me to say that they felt satisfied that this revenue was likely to be administered in a more efficient manner, both for the benefit of the empire at large and of the community of New Zealand, by the local Legislature than by any other authority; and they were of opinion that this administration would be better intrusted to the General Assembly than to the Provincial Legislatures, not only by reason of its great importance, but also because a uniform administration of the waste lands is desirable in regard both to efficiency and economy.

19. To this general concession there are, however, certain exceptions rendered necessary by the peculiar circumstances of New Zealand, both as respects the Native title to land and the rights already granted by Parliament to the New Zealand Company.

20. It has appeared so essential to maintain the principle that all acquisitions of land from the Native tribes should take place through the local Government only, that this regulation, which previously rested on the Royal Instructions only, has now been incorporated in the Constitution Act; and, in order to secure its maintenance, the Governor is empowered to pay the purchase-money to the Natives out of the first proceeds of all the land revenue.

21. He is, secondly, empowered to pay out of the same revenue the sums which may become payable to the New Zealand Company.

22. In dealing with this very difficult portion of the question before them, Her Majesty's Government have had only two considerations in view: the necessity of preserving the faith of the public, already pledged to the New Zealand Company, and their own desire to do this in such a manner as should be least burdensome to the resources of the people of New Zealand.

23. It was, indeed, urged upon Her Majesty's Government that they should leave the New Zealand Company to their rights as defined by the Act 10 and 11 Vict., c. 112. That Act made the purchase-money of their estates a first charge on the land revenue after surveys and emigration; and Her Majesty's late Government were advised that, from the manner in which the Act was framed, this charge was quite indefinite, there being no particular proportion thus fixed by law for survey and emigration.

24. But this uncertainty only made the charge more burdensome. If (to put a supposition, which I do not believe would have been realised) the Legislature of New Zealand had thought proper to reduce the payment to the New Zealand Company to a mere fractional amount, they could only have committed this act of injustice (for such under the circumstances it would have been) by devoting the whole residue to surveys and emigration without being able to appropriate any portion whatever to any public work or other purpose of general advantage.