

The two Houses of the New Zealand Parliament possess each at present absolute liberty of speech; but under the proposed change the freedom of the Legislative Council would be at the mercy of the Ministry. The consent of both Chambers is now necessary before a measure can receive the Governor's assent. Should a measure be thrown out, it is open to Ministers to appeal to the country. Thereafter, if the Legislative Council were to disregard the wishes of the electorate as expressed at the polls, sufficient emergency would then have arisen to justify the Governor in granting Ministers a sufficient number of appointments to bring the Upper House into harmony with the country.

This is, I submit, the constitutional practice; and it is more in accordance with the principles of freedom than the people should be the ultimate Court of appeal in any difference between the Chambers than that the power should rest with Ministers.

In a despatch dated the 19th October, 1839, Lord John Russell says, "Every political constitution in which different bodies share political power is only enabled to exist by the forbearance of those among whom this power is distributed." I would add that if the constitutional checks which experience has placed on the power of the different bodies is swept away the result will be a distinct loss of liberty to the colony, and almost absolute power to the Ministry.

The late Lord Granville, in a despatch to Lord Belmore dated the 2nd October, 1869, writes as follows: "When writing that despatch I was fully aware that the number of the Upper House was unlimited; I was also fully aware that on certain critical occasions it may become not only expedient, but indispensable, to bring the two Houses into harmony by creating, or threatening to create, a number of Legislative Councillors, sufficient for that purpose; but it is not the less clear that the value and character of the Upper Chamber will be destroyed if every successive Ministry is at liberty, without sufficient occasion, to obtain a majority in the Council by the creation of Councillors."

I respectfully submit that this extract and the one foregoing breathe as much of the spirit of the Constitution at the present day as when they were written, and that they are opposed to the view held by my Ministers.

With these remarks, I now beg to leave that branch of the subject for your Lordship's consideration.

With reference to my reasons for not accepting the advice of Ministers, your Lordship will be already aware that only two days had elapsed after my arrival in the colony when the Premier waited on me and tendered the advice, my refusal to accept of which has given rise to this despatch. When I asked for delay, that I might make myself acquainted with the subject, Mr. Ballance explained that, to enable his supporters to settle down to their work in Parliament, it was absolutely necessary that this question should be settled and the appointments made before Parliament met (which event occurred on the 23rd of June).

Whatever may be your Lordship's opinion of the course I have pursued, you will not fail to observe that my position was one of considerable difficulty. The same advice that was tendered to me had been offered to my predecessor, who, with his three years' experience of the colony, had not been able to accept it. His secret memorandum on this subject lay before me. I had not had time to examine the matter for myself. I was confronted with a reason for immediate decision as to the value of which I had not had time to decide. The difference between the number declined by Ministers and the number they would accept was so small that I could not think the reasons given were sufficient to account for their action, and they appeared to be so incommensurate with the gravity of the step they took in creating a difference with the Governor that I felt convinced that much more cogent reasons should be given than I had yet heard before I would be justified in accepting the advice tendered by Ministers.

For any further information on the subject I would refer your Lordship to the communications which have passed between myself and the Ministers, dated the 27th July and the 2nd, 4th, 5th, 8th, and 9th August, and also to the other papers which are mentioned in the accompanying schedule.

Before closing this despatch I would beg to remark that this unfortunate difference between myself and the Ministers could not have occurred were the appointments to the Legislative Council made on a fixed principle.

If the Act for amending the mode of appointing Legislative Councillors were further amended in the following direction the system would, except in an emergency, be self-adjusting. I would enact that the strength of the Council should bear a fixed proportion to that of the House of Representatives; that it should be increased or decreased *pari passu* with the other Chamber as occasion may require; vacancies be filled up within three months of their occurrence by the Governor, on the advice of Ministers; that a clause be inserted giving the Governor the power to appoint, on the advice of Ministers, on an emergency, such a number of new Councillors as would bring the Council into harmony with the country.

Some such enactment as this would effectually prevent any future differences.

Since this paragraph was written I have ascertained that in the year 1887 the late Sir Frederick Whitaker obtained a Committee of the Legislative Council to consider and report as to the best plan of reducing the numbers of the Council to one-half of the number of the members of the House. He had previously moved to that effect, and also that the same proportion should thereafter be maintained.

The Committee reported in favour of the proposal, but no further action was taken.

From this it is clear that the Council in 1887 affirmed the general principles which I have ventured to suggest.

If there is anything in the manner in which I have brought this question under your Lordship's notice not entirely consonant with the usual practice I beg you will attribute it to the unusual circumstances in which I have been placed so soon after my arrival in the colony.