

I submit that the memorandum contains something more than a statement of the difference between us; it is also an expression of opinion that greater power should be given to Ministers than they at present possess. I would now respectfully offer a few remarks upon the result of granting the powers Ministers think should be given them.

Let it be supposed that in a colony possessing representative institutions Ministers resign, appeal to the country, are defeated, and replaced by the Opposition. On coming into power, the new Ministry introduces—as Ministers are not unlikely to do—a measure which it thinks will be popular, besides that which they were returned to carry out. The Legislative Council throws it out, the Ministry advise the Governor to appoint sufficient Legislative Councillors to overcome opposition in the Chamber; the people have not been consulted, and support the arguments advanced in the Council, but (supposing Ministers have the power they think should be theirs) the Governor must grant the appointments asked for; the result would be that the Council is coerced, the measures are passed, and the people come under the law to which they may object, and on which they have not been consulted.

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, a 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 that the people should be the ultimate Court of appeal in any difference between the Chambers than that the power should rest with the 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 (see Appendix I., p. 45), 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 House 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 just as much of the spirit of the Constitution of 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 the 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 of 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, the 2nd, 4th, 5th, 8th, 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; that 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