

Crown for the manner in which he exercises the prerogative right in discriminating as to the number of appointments which ought to be made to the Council, he considers," &c., &c.

With regard to the statement that in the opinion of Ministers the appointment of Councillors is not a "personal act" on the part of the Governor, the Governor replies that the appointment of Councillors is, in his opinion, a matter in which he is not bound to follow the advice of his Ministers, except on the occasion of great emergency, and that precedents in the history of the Mother-country exist sufficient to show what are to be considered such occasions; in ordinary circumstances the Governor would naturally accept Ministers' advice as to appointments, but occasions may arise when the Governor is of opinion that the appointments proposed may interfere with the balance of parties in the Upper House; in such a case it is essential, in the interests of the colony, that appointments should only be made to such an extent as shall be safe.

In a despatch written by Sir H. Robinson to Lord Kimberley on the 27th August, 1872, will be found the following: "It will be seen that in every instance when questions have arisen as to the appointment of additional members of Council, the Governor has acted on his own responsibility without previous reference to the Secretary of State, and that when the course adopted has been reported Home, the Secretary of State has simply expressed his opinion on the propriety or otherwise of the previous proceedings."

The Governor adduces this extract as a proof that he is by no means the first Governor who has acted on his own responsibility on similar questions in colonies possessing Responsible Government.

In a despatch written by Lord Carnarvon to Lord Normanby in 1874 occurs the following: "In a colony having a Constitution such as Queensland, the tendency to introduce a large addition to the number of the Legislative Council for the purpose of giving effect to a particular course of policy will from time to time make itself felt. But if the balance of constitutional power is not to be more than a mere theory, it is clear that such a tendency cannot be encouraged to take its full course. . . . It is prudent to avoid such an increase in the number of Legislative Council as may give a temporary advantage to one party, thereby altering the constitutional character and functions of the legislative body, weakening its general influence, and possibly, if not provoking political reprisals at some future day, at least encouraging a practice which the more it is indulged the less easy will it be to restrain."

The Governor claims that the arguments used by Lord Carnarvon, though used under slightly different circumstances, meet the present case, in so far as that what Ministers ask would give them the right Lord Carnarvon deprecates.

In the memorandum which Ministers propose should be sent to the Secretary of State, they aver that the responsibility of making appointments should have vested with the Responsible Advisers of the Governor; if this is conceded, then Ministers may give way to the tendency deprecated by Lord Carnarvon without check or hindrance; indeed, nothing but their own moderation could hinder a strong Ministry, on entering office, from taking steps to bring the Upper House into harmony with the Lower, a step which the Governor need not remark can only be done constitutionally on an occasion of great emergency.

In reply to Ministers' remark that the Governor has given no reason for thinking that it would be unconstitutional to grant twelve members, and constitutional to grant nine, his reason was based on the best information he was able to give on his arrival in the colony, and it is supported by the return issued on the 13th July showing the names of present members of Legislative Council, from which he finds that there are in the Council, excluding the Speaker, eighteen Councillors appointed by Conservative Governments and sixteen appointed by Liberal Governments. But he understands that four of these appointed by Sir Robert Stout were really the appointments of coalition members of his Ministry, and should therefore be counted as Conservatives. Taking four members from the Liberals and giving them to the Conservatives brings on the numbers as twelve Government supporters against twenty-two Opposition members, or a difference of ten. The Governor therefore concludes that nine is the largest number he can offer.

The Governor is aware that the Premier does not agree that this is a proper measure of the strength of parties, and he admits that it is not easy to come to a conclusion in a non-representative House, but the Governor believes that when new policy of an advanced kind is introduced in such a Chamber members vote according to their consciences and not on party lines, and that when the crisis is over members generally will return to their party allegiance.

With regard to Ministers' reasons for preferring twelve, the Governor desires to point out that besides those given in the draft memorandum addressed to the Secretary of State, which practically meant efficiency, the Premier, in his reply to the leader of the Opposition on the 24th June, gave a reason of a different nature, the gist of which was, that the Governor had been advised to grant such appointments as would enable the Chamber more efficiently to discharge its functions, and to perform those functions more in harmony with the feelings of the country.

The latter phrase confirms the Governor in the opinion that he should not grant more than the number he has offered, and, having reconsidered the whole question, he finds that he cannot recede from the position he has taken up, and he will be prepared to forward Ministers' memorandum to Her Majesty's Secretary of State for the Colonies, and he begs that he may have it not later than Friday evening, the 5th instant.

4th August, 1892.

GLASGOW.

Enclosure 10 in No. 9.

MEMORANDUM for His EXCELLENCY.

MINISTERS have read His Excellency's memorandum of the 4th instant, and are glad to recognise that His Excellency does not insist on the position of "an Imperial officer, without limitation or restraint"; that His Excellency is bound to accept the advice of his Ministers "on the occasion of