

Your Excellency's Advisers have therefore decided to introduce in the next session of Parliament a Bill to reconstruct the Legislative Council on an elective basis, which they feel assured will receive the support of a large majority in the Assembly and throughout the country. Although this part of their policy does not of itself require any explanation at the present time, still it cannot be contemplated without the prospect of a contingency in respect to which it appears to your Excellency's Advisers desirable that their views should be communicated to the Right Hon. the Secretary of State. They cannot entertain the hope that the measure which they contemplate will be carried without much difficulty in the Council, whose members will have a life-interest in its resistance. In this event, which is regarded as most probable, the legislation of the colony will still have to be carried on, possibly for several years, with the continued existence of the nominee principle in the Council; and your Excellency's Advisers are compelled to weigh beforehand the considerations which ought in their judgment to determine appointments to that body. Considered as a matter of argument, they could not recognise the wisdom and sound policy of a low maximum; but, if an arbitrary rule were to be kept in view, they are of opinion that a maximum equal at least to one-half of the Assembly would be safer for the public interest, and more likely to secure a true representation of those elements of political experience, mature judgment, and the distinction and authority arising from public service, which ought to prevail in the Legislative Council, and would afford better guarantees against small personal organizations and clique influences. But so long as the nominee principle exists in the Constitution, your Excellency's Advisers must continue to recognise the full force of the principal argument employed by Mr. Wentworth in support of its introduction, which was its expansiveness; and they cannot admit that the letter of the Constitution should be refined away by any unwritten arbitrary rule whatever. They respectfully submit that all appointments to the Legislative Council should be determined by the circumstances of each case, the exigencies of the time, and by grave considerations which cannot be foreseen and estimated until they arise; and that it was intended that they should be so determined by the framers of the Constitution. While dutifully expressing their loyal attachment to the Throne and institutions of the Empire, your Excellency's Advisers cannot, even by implication, consent to relinquish the smallest vestige of the liberties of this colony, or concur in any rule or instruction at variance with the absolute right of its people to govern themselves in all matters within their own shores, as secured to them by the Constitution.

They respectfully request that your Excellency will transmit this minute by the outgoing mail to the Right Hon. the Secretary of State for the Colonies.

The Attorney-General was unavoidably absent from the meeting of Cabinet; but he concurs in the views herein expressed. I append copies of the division-lists on the Border Duties Bill in the Assembly and Council (marked "E" and "F").

Colonial Secretary's Office, Sydney, 8th August, 1872.

HENRY PARKES.

(A.)

[Extract from the *Sydney Morning Herald* of the 27th July, 1872.]

THE rejection of the Border Customs Convention Bill by a majority of one in the Legislative Council is a disastrous exercise of an undoubted right, besides being contrary to that policy which usually governs an Upper House. The measure is one purely of administration—the mode of collecting revenue. It has, moreover, the recommendation in principle of five years' practice. The policy of those five years the late Government professed to renew.

The members of the Upper House who voted for the Bill are mostly persons of established political reputation. Mr. Deas Thompson, Mr. Hay, Mr. Samuel, Mr. Weekes, Mr. Alexander Campbell, Mr. Owen, and Mr. Holt are all men of long standing, of great political experience, especially conversant with subjects of Customs and finance, and all having been members of the Lower House. In the other list, not one man has held any office in connection with the administration of Customs and finance, and only one has shared in the Government—Mr. Docker, a gentleman who owed his elevation to the Upper House to the personal regard of the late Premier, and who never was elected by the people. An adverse vote, therefore, ought to have been given under very solemn convictions, after a close examination of the subject, and a conscientious discharge of all preparatory sessional duties.

If the decision is to be taken as final, its wisdom will have to be proved by the event. It was a solemn thing to listen to the warnings of that distinguished public man, Mr. Deas Thomson, who has acquired by his intelligence and moderation the title to be called a statesman, when he told his hearers that the House should not look at the measure merely from a fiscal point of view; when he told them that, for the sake of a small pecuniary advantage, they were leading to the separation of the territory; and when he warned them that, if discontent were to arise, no effort on the part of the Legislature or people of this country could prevent an event which he should exceedingly deplore. He might have added that, in a conflict of this kind, where the passions were not unlikely to be awakened, consequences might result still more disastrous; and that, as in former disagreements, it might be requisite to send the Permanent Force to maintain a system declared to be odious and oppressive. We fear that there were few much impressed with any other consequence than the immediate result of rejecting the Bill. The motives, however, which influence men are often pure as well as mistaken, and there were, in the majority of one, persons incapable of giving a vote for the sake of serving a partisan or defeating a Ministry. Yet a celebrated writer, referring to the first American quarrel, traces the views of some who precipitated a separation. "He meant," speaking of the leader of the Opposition, "only to ruin a Minister, and he destroyed an empire."

Looking at the names and connections of those who voted for the rejection of the Bill, we do not see many persons whose lengthened experience of public affairs, and whose command of the confidence of their fellow-colonists, will explain their thwarting a measure approved by the great majority. Mr. Deas Thomson affirmed "that he could not doubt for a single moment that this measure had received, as it were, the assent of the whole colony."