

## APPENDIX.

### MEMORANDUM for His Excellency the GOVERNOR.

(No. 8.)

Premier's Office, Wellington, 3rd July, 1893.

THE Premier presents his compliments, and begs to acknowledge the receipt of His Excellency's memorandum of the 7th June. The Premier regrets that, owing to his absence from Wellington and to pressure of business, the memorandum should have remained unanswered until now. As will be remembered, it covered a copy of a despatch, together with enclosures, which His Excellency addressed to the Secretary of State on the 3rd December last, in continuation of the correspondence on the appointment of members to the Legislative Council; it also covered Lord Ripon's reply thereto of the 5th January. These despatches, His Excellency states, he considers it right to say had never been seen by the late Premier.

Ministers take exception to the unusual course pursued in this matter, and are of opinion that it was due to His Excellency's Advisers that the same course should have been followed with respect to the despatch of the 3rd December that was taken in regard to the other correspondence on this subject. They think that before such despatch was sent to the Secretary of State the late Prime Minister and his colleagues should have had an opportunity given them of perusing it, so that, if deemed desirable, an opportunity might have been afforded of commenting thereon. Ministers consider that since the whole of the constitutional question in dispute was thus reopened, the correspondence is all-important. His Excellency asked in his despatch to the Secretary of State that conclusions might be drawn from what had occurred in the proceedings in the Legislative Council during the last session of Parliament. Though this could not have affected the question of the appointment of twelve gentlemen to the Council, yet, had the Secretary of State concurred in the views submitted by His Excellency, and held them to be supported by the division-lists annexed to the despatch in question, it might have led to his instructions being varied as regards future appointments.

A striking feature in connection with the matter is that His Excellency's Advisers were unaware of the existence of Despatch No. 16 until it was forwarded to them on the 7th June. Yet the same despatch was ordered by the House of Commons to be printed on the 2nd May, and arrived in the colony only ten days after His Excellency had sent it to his Ministers.

The delay in forwarding such despatch to Ministers is a grave departure from the custom and usage hitherto observed. It is a departure which, if continued, must lead to great inconvenience. In a word, it is an infringement of constitutional practice.

Copies of all despatches, whether confidential or not, are by the Colonial Office Regulations to be deposited in Government House; and in the past all despatches, unless those strictly confidential, have been at all times open to the Governor's Advisers for the time being.

The regulation under which they are to be so deposited is that numbered 186. Regulation 187 provides that when so deposited they are not to be withdrawn. Under subsection 1 of Regulation 188 it is directed that unless they are marked "Confidential," the Governor is to lay them before his Responsible Advisers or the Executive Council, in default of some special reason to the contrary.

Since by this direction the despatches have to be laid before the Governor's Responsible Advisers for the time being, it is a fair contention that this should be done within a reasonable time, so as to give fair opportunity for comment being made or action being taken thereupon.

Already reference has been made in the House of Representatives to the fact that copies of these despatches, made from the House of Commons records, have come into the hands of members. Yet, owing to the delay before referred to, the General Assembly has not seen them on the table of either House.

His Excellency's Advisers wish to emphasize their opinion that the late Ministry were justified in following clear precedents by referring the difference with the Governor to the Secretary of State. They hold that this was done in accordance with the traditions of constitutional government. They assert that such reference was made by Ministers with His Excellency's concurrence.

Despatch No. 16 states that it was evident that when His Excellency declined to accept Ministers' advice they were not willing to resign. This conclusion of His Excellency has taken Ministers somewhat by surprise. When advice was tendered to His Excellency's predecessor (Lord Onslow) by Sir Harry Atkinson's Administration, Lord Onslow came to no such conclusion. Again, when advice was given him by the late Ministry, it will be seen by his confidential memorandum, of the 16th February, 1892, to his successor, that Lord Onslow says, "I declined to receive advice such as was proposed, and desired that it might be deferred until your Excellency's arrival, inasmuch as my stay in the colony would not enable me to see the end of consequences which a persistent refusal to accept the advice of my Ministers would entail."

It will thus be seen that Lord Onslow did not express the view to be found in Despatch No. 16; he simply wished the advice to stand over until the arrival of his successor. Had he, in refusing to accept the advice, held the view expressed in Despatch No. 16, or, if that view were correct, and the resignation of Ministers had been tendered, the position would have been an appeal to the people against the decision of Lord Onslow. He would have been absent from the colony, the Acting-Governor would have been in his place, and his successor on the high seas. Previous to the sending of Despatch No. 16 there was no persistent refusal to accept the advice; there was no demur, but a ready acquiescence by His Excellency in referring the matter to the Secretary