

MESSAGE No. 24.

The Officer administering the Government, considers it his duty to apprise the House of Representatives, that in consequence of the resignation of their seats in the Executive Council, by Mr. Fitzgerald, Mr. Weld, Mr. Sewell, and Mr. Bartley, he is preparing a Message to the House, which will fully explain to them his views and wishes, with regard to the relations of the Executive towards the two Houses of the Legislature, during his temporary administration of the Government. He has a confident hope, that the Message in question will be ready for delivery on the day after tomorrow, not later than two o'clock in the afternoon.

R. H. WYNYARD,

Officer administering the Government.

Government House, Auckland, 3rd August, 1854.

MESSAGE No. 25.

The Officer Administering the Government, with reference to the resignation of their seats in the Executive Council by Mr. Fitzgerald, Mr. Weld, Mr. Sewell, and Mr. Bartley, and in compliance with the promise made by his Message of the day before yesterday, proceeds to explain to the House of Representatives, as fully as the time will allow, his views and wishes with regard to the relations of the Executive towards the two Houses of the Legislature during his accidental and temporary administration of the Government.

He trusts that the House not less conscious than himself of the grave importance of the present crisis in the affairs of the colony, will give to the whole subject the same calm and deliberate consideration as he has himself bestowed upon it.

He begs of the House to revert to the position in which he was placed when His Excellency the Governor departed from the colony.

The very title of the office which then devolved upon him, shows that the only duties which it was absolutely incumbent on him to perform, were those of administering the Government for a brief period; that is, only for the purpose of maintaining the ordinary routine of public business until he should be relieved by the arrival of a regularly appointed Governor, not owing his authority to the accident of his being the Senior Officer in command of the troops, but obtaining it from the deliberate confidence of her Majesty.

But the Officer administering the Government did not confine himself within the safe and easy limits of attending only to established routine. Impressed with a belief that the colony both needed and desired legislation without delay by the General Assembly, he took upon himself, contrary to general usage as respects the functions of mere administrators of colonial governments, to convene the Parliament of the colony. For having spontaneously incurred this unusual responsibility, the House of Representatives saw fit, to convey to him an expression of their thanks in the following words:—"Entirely appreciating the difficulty of your Excellency's position, and the responsibility of initiating a course of policy during your temporary administration of the Government, we desire to record our deep and lasting sense of the great benefit which your Excellency has conferred on the colony by convening the General Assembly at the earliest possible period after it became your duty to assume the Government of New Zealand."

This was said in answer to the speech by the head of the Government whereby the session was opened; and it therefore indicates, by the complimentary allusion to the initiation of a policy by him, that Ministerial Responsibility was not at that moment in the contemplation of the House. Presently afterwards, however, and very suddenly, that question became so prominent as to exclude every other subject from the consideration of the House. This question involves principles which, when viewed as practically applicable to this Colony, were entirely new to the Officer administering the Government, as, down to a time not long preceding the convention of the Assembly, those principles had been to the thoughts of the colonists, with the exception of a very few of the most active political minds. When, however, that question was brought before him in a practical form, and by means of proceedings in the House which could not but command his most serious attention, he examined it with care; and, becoming satisfied that a concession of the principle was both desirable in itself on general grounds, and necessary in

order to preserve harmony between the organ of the Crown and the Representatives of the people, he resolved to comply with the wishes of the House. But that resolution on his part was limited by the condition that, when fully admitting the principle, he should give immediate effect to it so far only as he could do so constitutionally. On an examination of the Constitution Act with this especial view, it became manifest, in the first place, that the Act of the Imperial Parliament makes no specific provision for Ministerial Responsibility in the exercise of the Governor's functions; and, secondly, that it does contain a provision whereby the same validity is given to certain existing Royal Instructions as if they had been part of the Act itself. Throughout the discussions on this subject, whether in the Houses of the Legislature or in the Executive Council, the constitutional force of these Royal Instructions has been taken for granted by everybody. The Officer administering the Government was led to believe that those Instructions absolutely preclude him from establishing Ministerial Responsibility in a complete form, and, in particular, by forbidding him to disturb any tenure of office derived from her Majesty's Sign Manual, until he shall receive from her Majesty express direction or permission to set aside appointments made by Herself. Accordingly, when the Officer administering the Government held communication with gentlemen supposed to enjoy the confidence of the House, with a view to the introduction into the Executive Council of some members of the House of Representatives, he made them fully and distinctly acquainted with his opinion as to the limits of his power with regard to actual holders. In that opinion he supposed those gentlemen to concur without qualification or reserve; and, on the basis of that opinion, Ministerial arrangements were made, which are described by the correspondence that took place at the time, a copy of which, numbered 4 and 5, is appended to this Message. Those documents were laid before the House of Representatives, who, after ample discussion of the new Ministerial arrangements, expressed to the Officer administering the Government, by a formal address (No. 6 in the appendix) the high satisfaction and deep sense of obligation towards him with which they regarded his prompt and unreserved compliance with their desire that Ministerial Responsibility in the conduct of Legislative and Executive proceedings by the Governor should be established without delay. The practical limits of the concession of the principle were as cordially accepted by the House as by the new Ministers themselves.

This arrangement, completed on the 14th of June, appeared to give universal satisfaction, until, on or about the 29th June, the Ministers asked the Officer administering the Government to exceed that arrangement, by adding to the Executive Council a member of the Legislative Council, who might thus represent the Government in the latter body. In order to facilitate the transaction of Legislative business, the Officer administering the Government instantly complied with this request; and in doing so he exceeded the original Ministerial arrangement by giving to the new advisers of the Governor a majority in the Executive Council.

Again, when Mr. Bell, the member of the Executive Council who had been so appointed, was called away by domestic circumstances immediately after having appeared in the Legislative Council as a responsible adviser of the Crown, the Officer administering the Government instantly and cheerfully assented to the appointment of Mr. Bartley as a member both of the Executive and of the Legislative Councils.

So far as the Officer administering the Government was ever informed, these arrangements were satisfactory, and effectual for the purposes with which they were made, until about the beginning of last week, when observations were orally addressed to him by some of the new members of the Executive Council, which implied that they were discontented with their actual position, and desirous of some change in the direction of that complete Responsible Government, which exists when all the members of the Executive Council belong to one party and are liable to removal on party grounds. But it was not until Saturday last, the 29th July, that any precise intimation of the new desire of Mr. Fitzgerald and his colleagues was conveyed to the Officer administering the Government. On that day they were requested to state their wishes precisely in writing. On Tuesday, the 1st of August, they sent to him the Memorandum (which not being dated is marked A), which calls upon him to establish Responsible Government in the most complete form, and instantly, or to expect that the four gentlemen by whom the Memorandum is signed, will immediately resign their seats in the Executive Council. That document, he must confess, caused him surprise as well as much regret. Though the Ministerial arrangements of the 14th of June had then lasted about eight weeks, he had never till about a week before, and never at all in any precise manner, been informed that there existed any such difficulties and troubles as those described in the memorandum; and least of all was he conscious that, as is stated in the memorandum, the House of Representatives was disposed to adopt that last resource of a representative body when wronged by the Executive—that of stopping the supplies. He alludes with reluctance to these alarming, not to say threatening, passages in the memorandum, lest the

House should imagine that they may in some degree have biassed his mind towards the conclusion that he ought not to comply with the call made upon him. He assures the House that they have had no such influence, but that he refused (by his memorandum of the 1st of August) to comply with that call, influenced solely by the consideration that his duty as the Administrator of a Government which has written Constitutional rules for its guidance, forbade him on Wednesday last, as it had forbidden him nine weeks before, to think of dismissing, without Her Majesty's consent, any officer holding his appointment directly from Her Majesty. The case of the Colonial Secretary differed from that of the other officers, inasmuch as that gentleman did not hold his appointment directly from Her Majesty; wherefore the administrator of the Government, being most anxious to make every concession to the new Ministers which he could feel was not inconsistent with his sense of right, was much pleased to find that a desire on the part of Dr. Sinclair to aid in averting any serious difference between the new ministers and the head of the Government, had induced that gentleman to tender the unconditional resignation of his office even before the promised pension was secured to him by law. In so far, the state of matters on the 2nd of August was considerably improved in comparison with the arrangements made eight weeks before: a step in advance towards the complete establishment of Responsible Government was actually taken: the office of Colonial Secretary was laid open to be filled by a Member of either Legislative House. Nor was this the only concession made to Mr. Fitzgerald and his colleagues. They were informed, that the Attorney-General intended and was ready to despatch to England the resignation of his office. The Officer administering the Government trusts that the House will mark these facts. In all other respects matters were in the same state when Mr. Fitzgerald and his colleagues resigned their appointments, as when they accepted them, knowing exactly the constitutional position and personal sentiments of the Officer administering the Government. During the long interval they enjoyed his unlimited confidence, and never offered to him a suggestion which he did not readily accept. Neither, during that interval, did he ever think of exercising his authority independently of their advice. In all respects, he faithfully adhered to the original arrangement; and now, when they depart from it by suddenly asking him to set it at nought, he has but one reply to make—that his sense of duty and honor absolutely forbids him to comply with the request. He feels that he should be wanting in candour towards the House if he hesitated to state to them in the plainest terms the settled conviction of his mind, that by yielding at all on the point of duty, he should deserve the censure of Her Majesty, and should incur the disapprobation of the colonists of New Zealand, for having degraded [the office, the honor of which has been accidentally entrusted to his care.

The words within brackets were forwarded to the House after the remainder of the Message, in addition, and as an amendment to a clerical error in the original copy.

At the same time, he is very desirous that his difference with the late members of the Executive Council should not grow into a difference with the House. He therefore requests the attention of the House to certain facts which seem to him to have an important bearing on the question which the House will have to determine. He begs of them to observe that the Executive Government Bill, the passage of which into law was, by the original ministerial arrangement, announced to the House on the 15th June, made a condition of the retirement of the Attorney-General and Colonial Treasurer when Her Majesty's assent thereto should be obtained, has not passed, in the House of Representatives, beyond the stage of being read a second time; and that, from the date of that proceeding—namely the 27th June, the measure appears to have remained in a state of abeyance and oblivion. The memorandum of Mr. Fitzgerald and his colleagues, of the 1st August, speaks of a "formidable opposition" which they encountered in the Houses of the Legislature, and which threatened to put a stop to the public business. This fact was first brought to the knowledge of the Officer administering the Government by the Memorandum in question. Till he read that document, he had been led to believe that the Ministers were steadily supported in the House of Representatives by large majorities; and though he was aware that their proposals were sometimes criticized and opposed by small minorities, he imagined that such opposition arose from the natural working of representative institutions, and was not merely harmless, but serviceable as the means of subjecting important legislative measures to scrutiny by the elected guardians of the public interests. With respect to the Legislative Council, he has been assured not only that it has exhibited no organized opposition to the measures proposed by the Government, but that, on the contrary, a member of the Government in the House of Representatives, speaking in that House, recently thanked the Legislative Council for having improved some measures sent to them by the Representative House, and expressed his hope that they would continue to afford such valuable assistance in the work of legislation. The Officer Administering the Government assures the House that he was never by anybody told of any formidable opposition to the Government in either House of the Legislature, and that he is still at a loss to understand the statement, with regard to such opposition, in the memorandum of Mr. Fitzgerald and his colleagues. He

was also totally unconscious that the House of Representatives had exhibited any disposition still less a general determination, not to grant the supplies necessary for carrying on the service of the Government, unless he should consent to a total departure from the Ministerial arrangements for which the House had expressed to him its warmest thanks. At any rate, these facts were suddenly communicated to him, and so much in the form of pressure upon his judgment that he could not be blind to a sudden change of mind on the part of the authors of the memorandum. He could not doubt that, for reasons of which he was himself unconscious, they had repented of their consent to the original ministerial arrangement, and that they were insisting, and with something like a threat of deplorable consequences if he refused, on obtaining far more than the agreement into which they had deliberately entered with him. Nor could he fail to be struck with the manner in which the resignations of those gentlemen were presented to him. It was settled on Tuesday the 1st August, that the final consideration of the difference between them and him should take place at a meeting of the Executive Council at 3 o'clock on Wednesday the 2nd. But before noon on that day, Mr. Sewell's resignation was delivered, and it was followed, after an interval, but before 3 o'clock, by those of Mr. Weld and Mr. Bartley. At the appointed meeting for three o'clock, Mr. Fitzgerald alone attended; and it was only when the Officer administering the Government declared that his opinion was unchanged, thereby shewing that the successive resignations of Mr. Sewell, Mr. Weld, and Mr. Bartley, had not affected his judgment, that Mr. Fitzgerald then and there wrote and presented his own resignation.

The above statement of facts, which are within the knowledge of the Officer Administering the Government, will, he trusts, satisfy the House, that it is not their duty to sustain the late Ministers in their difference with him. For two reasons in particular, he should feel deep regret if their natural feelings of disappointment at the present stoppage of the business of the Session, and at the present downfall of such ministerial responsibility as he can consent to, should induce them to view his conduct in an unfavourable light. In the first place, he cannot conceal from himself that, if the House should deliberately adopt the Memorandum of the 1st of August, the unhappy events which are therein hypothetically predicted, or, at any rate, events which it is equally painful to contemplate, could scarcely be averted, whilst unquestionably the Session would be lost, and long delays must ensue before the colony could reap the benefits of legislation by its General Assembly. Secondly, though this, he acknowledges, is quite a minor consideration, and one which he is not entitled to press on the notice of the House, he should himself incur a severe disappointment of the pride and pleasure, which he has felt in supposing that the successful initiation, at least, of Responsible Government, would take place during his tenure of office as Her Majesty's representative in New Zealand.

He earnestly implores the House to weigh with calmness and circumspection the question which this Message submits to them; and he relies with confidence on their being desirous of at least attempting to get through the Session beneficially for the Colony, by the aid of that amount of Ministerial responsibility, more than which it is not at present in his power to aid in establishing, and which, by their Address to him of the 21st June, they declared to be satisfactory under the circumstances. And he hereby engages to take into his most serious and favourable consideration any suggestion having that object in view, which they may please to present to him, either by Address, or through a Member of the House enjoying his confidence.

He suggests that, at any rate, the House should pass a measure for the complete establishment of Responsible Government, similar in principle to those which are known to have been framed by the legislatures of Jamaica, and one or two of the Australian Colonies. Such an Act, it is scarcely necessary for him to add, must of course be reserved for Her Majesty's assent, according to the provisions of the Constitution Act.

The Officer administering the Government cannot but express his persuasion, that, under any circumstances, the House will be indisposed to separate without adding some useful measures to the very small amount of legislation which has as yet been accomplished; without making some provision for the appropriation of the public revenues between the General and the Provincial Governments; or without settling, though in an imperfect manner, and for but temporary purposes, other questions of a very urgent character.

In order that the House may have before them at one view all the documents which relate to the subject of this Message, they will be appended to it in the order of their dates.

In communicating with the House by Message on the subject of a ministerial crisis, the Officer administering the Government has been guided by numerous precedents, and more especially by the example of the late Lord Metcalfe; who, as Governor of Canada in 1843, upon the resignation of a Ministry, conducted all communications between himself and the House of Assembly on the subject, by means of original Messages from himself, and Messages in answer to Addresses from the House. Copies of the voluminous documents in question are now in the hands of the Officer administering the Government.

Finally, the Officer Administering the Government declares to the House his unaltered adherence to the principle of Responsible Government; and he once more assures them of his most earnest hope that the limited practical application of that principle, which, from first to last, he has asserted his inability to exceed, may not be rejected by them. He therefore again expresses his trust that the House may see fit to abstain from coming hastily to any conclusion on the subject of this Message, but may, on the contrary, bestow upon it the calm and patient consideration which it has received from himself.

R. H. WYNYARD,
Officer Administering the Government.

Government House, Auckland, August 5th, 1854.

APPENDIX.

No. 1.

To His Excellency the Officer administering the Government of the Islands of New Zealand.
May it please your Excellency,—

We, the House of Representatives of New Zealand, in Parliament assembled, desire to express to your Excellency our grateful thanks for the Address with which your Excellency has been pleased to inaugurate the opening of the first General Assembly of New Zealand.

We cordially unite in the language of congratulation with which your Excellency has been pleased to refer to the prosperity which pervades all parts of this Colony; and we desire to add our own testimony, derived from personal acquaintance with the various Provinces, to the justice of your Excellency's expressions. We entertain the strongest convictions that under the liberal institutions which have been bestowed on this Colony by the English Parliament, that prosperity will be fostered and extended.

Entirely appreciating the difficulty of your Excellency's position, and the responsibility of initiating a course of policy, during your temporary administration of the Government, we desire to record our deep and lasting sense of the great benefit which your Excellency has conferred on the Colony by convening the General Assembly at the earliest possible period after it became your duty to assume the Government of New Zealand.

We feel that it would be premature at so early a period of the Session, to enter upon all the various subjects to which your Excellency has been pleased to direct our attention; but we desire to express our earnest wish to co-operate, in the most cordial manner, with your Excellency, in carrying into effect whatever policy may ultimately be determined on as most beneficial to the Colony at large, and to the several Provinces of which it is composed, and to assure your Excellency that whatever measures may be submitted to the house by your Excellency's Government, shall receive their most respectful and patient consideration.

(Signed) CHARLES CLIFFORD,
Speaker of the House of Representatives,

[No date, but received on the 1st June.]

True copy.

W. COCKCRAFT,
Private Secretary.

No. 2.

ATTORNEY GENERAL'S OPINION.

By the recent Act for granting a Representative Constitution to New Zealand, no provision has been made for establishing "Ministerial Responsibility in the conduct of Legislative and Executive proceedings by the Governor."

By the Royal Letters Patent (13th September, 1852), issued to the Governor subsequently to the passing of the Act, it is provided that the Government of the Colony shall be administered by a Governor under instructions from the Crown, and with the advice and assistance of an Executive Council.

By the Royal Instructions of the same date (13th September, 1852), and accompanying the Governor's Commission, the undermentioned persons are nominated and appointed by the Crown to be members of the Executive Council, that is to say,

The senior Military Officer in command of Her Majesty's Forces.

The Colonial Secretary, or the person acting in that capacity.

The Attorney-General or the person acting in that capacity.

The Treasurer, or the person acting in that capacity.

And such other persons as the Governor shall deem to be qualified and capable to advise him. But it is provided that any appointment so to be made by the Governor shall be provisional only, and subject to be confirmed or disallowed by the Crown.

The Royal Instructions further provide that the Executive Council shall not proceed to the despatch of business unless summoned by the Governor;—that as a general rule no question shall be brought before them for their advice or decision, excepting such as may be proposed by the Governor;—and that it shall be competent for the Governor, although he may dissent from the opinion of the major part, or of the whole of the Council, to execute the powers conferred upon him, in opposition to their opinion. But that in such case, it shall be competent for any member of the Council to record on the minutes the reasons of any advice he may give, and that it shall be peremptory on the Governor in such case immediately to transmit to the Crown a full explanation and a copy of such minutes.

By the terms of his Commission, and by the Royal Instructions accompanying it, the Governor himself is made directly responsible to the Crown, and no power is given to him to delegate his authority, or to relieve himself from such responsibility in the conduct of the duties of his office.

By the same Instruments the members of the Executive Council are also made responsible to the Crown.

Neither by the Constitution Act, nor by the Instruments under the authority of which he administers the Government, has any provision been made for enabling the Governor to establish "Ministerial Responsibility in the conduct of Legislative and Executive proceedings by the Governor."

Looking to the provisions of the Constitution Act, (sections 55, 56,) by which it is enacted that the Governor may by message transmit to either the Legislative Council or to the House of Representatives for their consideration, the drafts of any laws which it may appear to him to be desirable to introduce, and that he may also make such arrangements as he may think expedient in any bill which may have been passed by the Council and House, and return the same for their consideration; and looking to the recommendation contained in the Report of the Committee of the Board of Trade and Plantations on the proposed establishment of a Representative Legislature for the Cape of Good Hope, which appears to have been under the notice of H.M. Government, when engaged in the preparation of the New Zealand Constitution Act, it would seem to have been the decision of the framers of the Act that it was not necessary that the Executive should be represented either in the Legislative Council or in the House of Representatives, and that it was intended by them that the Governor should not only exercise the power of assenting to or disallowing the Legislative measures of the Legislative Council and the House of Representatives but that he should form an active and co-ordinate branch of the Assembly, and with the advice and assistance of

the Executive Council, take a direct and distinct share in the business of the Legislature: With a general desire on the part of the members of the Assembly to carry out the apparent intentions of the framers of the Act; it would be possible though difficult to carry through the Chambers the Legislative measures necessary for giving effect to the policy of the Government; but in the absence of a co-operative spirit on their part it would be impracticable successfully to conduct through the two branches of the Legislature the most ordinary Government business. From the recent debates in the House of Representatives it is obvious that the members of that House are not prepared cordially to acquiesce in any arrangement for the conduct of the public business in the Assembly which shall render unnecessary the presence in the Legislature of any representation of the Executive Government.

It can scarcely be doubted that the absence of any provision for securing that the Executive should be represented in the Legislature is a defect in the Act, and the practical question is, whether it is now within the power of the Officer administering the Government to remedy the defect.

In the absence of any practical difficulty the most simple course would have been for the Officer administering the Government to select from the members of the Assembly three persons who enjoy the respect and confidence of the country, and who would be prepared to carry out the policy of the Government, and to appoint such persons to the offices of Colonial Secretary, Attorney-General, and Colonial Treasurer. But the difficulty which stands in the way of such an arrangement arises from the fact that the present holders of these offices hold virtually permanent appointments, which in the absence of misconduct on their parts they can hardly be called upon to resign; and, not having been required by the then Governor to secure their election for a seat in the House of Representatives before the General Election, they could not be required to vacate their offices merely because they should not be able to secure their election by any particular constituency, even if a vacancy were made in order that the experiment might be tried.

It would be desirable however that the Officer administering the government, if he remains in office; and that a new Governor, if a successor be appointed, should be in a position to call to his Councils, and to appoint to the principal offices of Government persons in whom the country would confide, to give free scope to the full development of the new constitution.

An act to be passed by the Assembly for securing to the present holders of these offices, a reasonable provision in the event of their retirement would probably tend to the attainment of that object.

It would further be competent for the Officer administering the Government under the authority of the Royal Instructions, at once to add to the Executive Council such other persons as he may deem qualified and capable to advise him. By this means it would be within his power to secure in some measure the representation of the Government in the Legislature. With this object two or three members having seats in the Assembly might be appointed provisionally members of the Executive Council, to form the recognised organs of communication between the Executive and the Legislative. The persons selected for this purpose without being appointed at present to any specific offices might be charged with the duty of conducting the Government business through the two chambers, with the duty of preparing, introducing, and superintending in their progress such bills as may be necessary for giving effect to the policy of the government; of preparing a financial statement and the necessary measures for giving it practical effect. To enable the persons entrusted with these duties to discharge them efficiently, it would be essential that the Officer administering the Government should give them his confidence and cordial support, as return for laborious service, and farther to secure their responsibility, it would be desirable that they should be adequately paid. It would also be indispensable that one of their number should be an able and experienced lawyer.

These legislative members of the Government it is to be presumed would take office only on the condition of holding their appointments so long as they should retain the confidence of the Legislature. As regards the Crown their appointments being made under the authority of the Royal Instructions would be provisional only, and subject to be confirmed or disallowed by the Crown.

In the meantime and during the continuance of the Session at least, it would probably tend to the public convenience that the present Secretary, Attorney-General, and Treasurer, should continue to hold their offices and to transact the ordinary and current business of their respective departments.

In the absence of special authority from Her Majesty's Government, it is not I think within the power of the Officer administering the Government to take any measures for carrying into effect the resolution of the House of Representatives, further than to prepare the way for opening the principal offices of the Government to new men, and in the meantime and as a temporary measure, to add two or three members of the Assembly to the Executive Council, for the purpose of establishing a recognised and responsible medium of communication between the Executive and Legislative branches of the Government.

The course thus suggested is not free from objection; and it would no doubt be attended with some difficulty and inconvenience; it proceeds however as far as, consistently with his powers and duties, and especially with his position as temporary administrator of the Government, he can I think prudently be advised to proceed.

Looking to the views and expectations of the members of the Legislature now assembled from all parts of the colony, there is no reasonable ground to believe that in the absence of any measure for securing the representation of the Executive in the Assembly that the most ordinary and necessary business of the Government can be successfully conducted through the Chambers. Seeing the strong tendency to Provincial independence; believing that if the General Government be not strengthened the central authority will become virtually powerless; and that if the power of the General Government be not now increased, the opportunity will be lost of limiting and defining the powers of the Provincial Executive; seeing, too, that the temper of the House is as yet moderate, and that there appears to be a disposition on the part of the members to work cordially with the Government, if met in a conciliatory spirit; and believing that ill feeling once aroused would be followed for years by a mischievous and unprofitable agitation: I think that if the course above suggested would secure the maintenance of harmonious relations between the Executive and Legislative branches of the Government, His Excellency would, under all the circumstances of the case, exercise a sound discretion in adopting it

(Signed)

WILLIAM SWAINSON,

Attorney-General.

June 5, 1854.

No. 3.

To His Excellency the Officer Administering the Government of the Islands of New Zealand.

May it please your Excellency,—

WE, the House of Representatives, approach your Excellency for the purpose of submitting to you the accompanying resolution which has been adopted by this house, and we respectfully pray that your Excellency may be pleased to take it into your serious and early consideration.

(Signed)

CHAS. CLIFFORD, Speaker.

House of Representatives, Auckland, June 6th, 1854.

Resolved—

Tuesday, June 6th, 1854.

That a respectful address be presented by the Speaker to the Officer Administering the Government, praying that His Excellency will be pleased to take the following resolution into his serious and early consideration, viz.: "That amongst the objects which this house desires to see accomplished without delay, both as an essential means whereby the General Government may rightly exercise a due control over the Provincial Governments, and as a no less indispensable means of obtaining for the General Government the confidence and attachment of the people, the most important is the establishment of Ministerial Responsibility in the conduct of Legislative and Executive proceedings by the Governor.

(True extract.)

(Signed)

CHAS. CLIFFORD, Speaker.

MESSAGE No. 3.

Government House, Auckland 7th June, 1854.

The Officer Administering the Government has received the address of the House of Representatives praying that he will be pleased to take the following resolution into his serious and early consideration, "That amongst the objects which this house desires to see accomplished without delay, both as an essential means whereby the General Government may rightly exercise a due control over the Provincial Government, and as a no less indispensable means of obtaining for the General Govern-

ment the confidence and attachment of the people the most important is the establishment of Ministerial Responsibility in the conduct of Legislative and Executive proceedings by the Governor."

The Officer administering the Government begs to assure the house that he will approach the consideration of the subject with a sincere desire to give effect as far as it may be in his power to do so to the views of the house embodied in the above resolution.

(Signed) R. H. WYNYARD,
Officer Administering the Government.

To the Honorable the Speaker of the
House of Representatives.

Resolved—

Wednesday, June 7th, 1854.

That this house desires to record the expression of its highest satisfaction with the message this day read from His Excellency the Officer administering the Government in reply to the Address of the house on the subject of Ministerial Responsibility.

(True extract.)

(Signed)

CHAS. CLIFFORD, Speaker.

No. 4.

Auckland, 10th June, 1854.

SIR,—

In obedience to your Excellency's commands I have communicated with those gentlemen who would, I conceive, be able to conduct the Legislative business of the Government in the House of Representatives, and would be willing to accept seats in the Executive Council for that purpose, and I have the honor to name to your Excellency F. A. Weld, Esq., and H. Sewell, Esq., who, together with myself, are ready to undertake that task.

I beg at the same time to represent to your Excellency that it would materially facilitate the conduct of legislation, and would tend to obtain the general confidence of the people if a fourth member were added to the Executive Council, being an inhabitant of Auckland, and in a position to represent the special interests of the Auckland community; at the same time I regret that I am unable at present to name such a person to your Excellency, but I hope to be able to do so in a few days.

In accepting office for the above purpose, I am to express on my own part and that of my colleagues, that we do so on the understanding that in accordance with the arrangement suggested by the Attorney-General, a Bill shall be immediately introduced into the House of Representatives for the purpose of securing to the present holders of the offices of Secretary, Treasurer, and Attorney-General such compensation as the House may deem to be fair and reasonable upon a full consideration of their respective claims, and that those gentlemen shall resign their offices as soon as the convenience of the public service shall require it.

I have the honour to be, Sir, with the greatest respect,

Your Excellency's most obedient humble servant,

(Signed)

JAMES EDWARD FITZGERALD.

To His Excellency The Officer
Administering the Government.

(Copy.)

No. 5.

Government House, Auckland, June 10, 1854.

Sir,—I have the honor to acknowledge the receipt of your communication of this day's date, and in reference thereto, beg to state I am happy to find you disposed and enabled to carry out the proposition made to you by me, on receiving a resolution from the House of Representatives in connection with the desire of that body for a system of Responsible Government; and to acquaint you that I shall have pleasure in appointing you, and the two gentlemen named by you, to seats in the Executive Council, provisionally, till the pleasure of Her Majesty is known thereon; and be prepared moreover to repose in you my entire confidence, while carrying on the Legislative business of the Government through the Assembly.

The introduction of a fourth member into the Executive Council, I conceive uncalled for at present. It might embarrass the officer appointed to relieve me, and, on the other hand, the interest of the Auckland community can never fail to enjoy protection while the existing members retain their seats in the Executive Council.

With regard to the third and last point alluded to, I feel convinced you will agree with me in the inexpediency of my disturbing in any way, as temporarily administering the Government, the position of those now in office; at all events till I am honoured with the views of her Majesty's Home Government on the steps I have already taken. In the meantime have not failed to make known to the gentlemen concerned the tenor of your concluding paragraph, in reference to which, no hesitation, I find, exists on their parts, to meet the requirements of Her Majesty's Government, as will be seen by the enclosed copies of notes I have received from them on the subject.

I have the honor, &c.,

(Signed)

R. H. WYNYARD,

Officer Administering
the Government.

To J. E. Fitzgerald, Esq.,

&c., &c.,
Auckland.

True copy,

A. J. RICHMOND, Assistant Private Secretary.

(Copy.)

No. 1.

The Colonial Secretary will be prepared, on a reasonable retiring provision being made for him, to resign his office, when the Representative of the Crown shall intimate to him that the interests of the Colony would be promoted by his doing so.

10th June, 1854.

True copy.

(Signed)

ANDREW SINCLAIR,
Colonial Secretary.

A. J. RICHMOND, Assistant Private Secretary.

(Copy.)

No. 2.

The Attorney-General having been appointed by the Crown, conceives himself to be an officer responsible to the Crown. But that either with or without any retiring provision what ever, if the Representative of the Crown shall intimate to him that the interests of the Public Service or of Her Majesty's Colonial subjects would be promoted by his retirement, he will be ready to retire at any time.

10th June, 1854.

True copy.

(Signed)

WILLIAM SWAINSON, Attorney-General.

A. J. RICHMOND, Assistant Private Secretary.

(Copy.)

No. 3.

The Colonial Treasurer having been appointed by the Crown will be prepared, provided an Act be passed by the Assembly, making fitting provision for his retirement, immediately to tender his resignation to the Crown, and upon the confirmation of such Act by the Crown, and the acceptance of his resignation, be prepared immediately to give up office.

10th June, 1854.

True copy.

(Signed)

ALEXANDER SHEPHERD,
Colonial Treasurer.

A. J. RICHMOND, Assistant Private Secretary.

No. 6.

To His Excellency the Officer Administering the Government.

The House of Representatives humbly approach your Excellency the Officer Administering the Government, and pray that your Excellency will be pleased to accept an expression of the high satisfaction and deep sense of obligation towards you with which this House has regarded your Excellency's prompt and unreserved compliance with their desire, that Ministerial Responsibility in the conduct of Legislative and Executive proceedings by the Governor should be established without delay.

(Signed)

CHARLES CLIFFORD, Speaker.

House of Representatives, Auckland, June 21st, 1854.

(Copy.)

No. 7, or A.

CONFIDENTIAL MEMORANDUM.

At the commencement of the present session of the General Assembly a debate took place upon a resolution asserting the necessity of a recognition of the principle of Responsible Government in the sense in which that term is understood in the

Constitution of England, and has been recently acted on in all the British Colonies in which representative institutions are established. That resolution after a debate of several days was adopted by the House of Representatives with but one dissentient voice.

His Excellency, with the advice of His Executive Council, then determined to meet the views of the house, by admitting to the Executive Council three members of the House of Representatives who should hold their offices so long as they could command the assent of the majority of the legislative bodies; but it was understood at the same time that the arrangement then made should be considered to be a provisional one, as a step towards the final establishment of the new system of Government so soon as the public service should render the complete change necessary. It was further determined that the Attorney-General, who had been appointed to be the Speaker of the Legislative Council, should conduct the Government business in that house; and it was assumed that his position as Speaker would form no obstacle to his doing so. In a short time, however, the dissatisfaction of the Legislative Council at such an arrangement, rendered it necessary that a fourth member should be added to the Executive Council with a seat in the Upper House, charged with the conduct of the Government business in that body. After full consideration His Excellency coincided in the necessity of that arrangement.

In this manner the Government was conducted for some weeks with harmony and success; several important Bills brought in by the Government, imperatively necessary for the consolidation and adjustment of the powers granted by the Constitution Act, were passed, or carried through several stages.

But as the Session advanced, new circumstances arose. A formidable opposition was formed, which, although hitherto successfully met by the Government, rendered it more than doubtful whether the public business could be much longer conducted in the Houses of the Legislature, except by a strong and consistent Government composed of the holders of the principal offices in the Executive. It became every day more apparent that the attempt to conduct the Government in the Legislative houses of the Assembly, by others than the heads of the principal Departments could not but fail; and that the temporary expedient adopted, could not long succeed.

It is to be observed, that, that attempt was one never before tried; there being no instance of a colonial government being conducted in the Legislature except by the Executive Officers of the government in person.

The result of the proceedings of a Committee of the house on the subject of the public revenues and expenditure since the expiration of the last Appropriation Bill, ten months ago, tended materially to lessen the confidence of the house and the public in the government as at present constituted.

The public have had before them in a definite and tangible shape the existence and the results of a policy in the management of the revenues, in the administration of the Crown lands, and in various departments of the public service, which are eminently distasteful to the great mass of the population.

The result has been the growth of a general feeling of insecurity in the minds of the public, both in and out of the Houses of the Assembly, as to the conduct of the public business of the country, and a general determination, which there is every reason to believe exists on the part, not only of the opponents of the government, but also of its supporters in the house, not to grant the supplies necessary to carry on the service of the government, unless upon the constitutional security (derived from the presence of the principal holders of office in the Houses of the Legislature and the responsibility of their tenure of those offices) that the administration of the government would for the future be conducted in accordance with the will of the Legislature.

This feeling has been increased by the consideration that in the Bills laid before the House of Representatives by the government, it has been found necessary to ask for very considerable powers being entrusted to the Executive in the administration of the functions which those Bills proposed to create; and it is argued with reason that the Legislature would not be justified in granting such extensive administrative power, unless ample guarantee were afforded, that those powers would be exercised under the constitutional control of the Legislature.

Upon the whole it is apparent that the government of the Colony can be no longer conducted on the present footing; and it is more than probable that should the present arrangements continue, a very serious difficulty will be experienced in obtaining the supplies for the public service.

The present holders of the unofficial seats in the Executive Council would be acting in neglect of their duty to his Excellency, to their constituents, and to themselves, did they continue to hold office under an arrangement of which the only result must be to embroil the Executive with the Legislature at a moment when the whole interests of the colony are deeply concerned in conducting the Government with harmony.

There appear to be but three courses open. First, that the present unofficial members of the Executive Council should be replaced by others, should any such be found, who will accept seats on the understanding that the present arrangements shall be preserved. Secondly, that the Government shall be restored to the old form, and shall be carried on without any unofficial Members in the Executive Council. And thirdly that the present holders of office shall resign, and the Government be re-constituted on the ordinary responsible basis.

It is quite obvious that in the two first of these cases an immediate prorogation, probably a dissolution of the General Assembly must follow, and the Government of the Colony must be carried on for many months longer without any legal appropriation of the public revenues. The organization of the public Departments consistently with the requirements of the New Constitution, a measure loudly called for by the present state of all public business, must be delayed for an indefinite time; and a conflict fraught with danger to the peace and well being of the Colony will inevitably arise between the General and Provincial Governments; a conflict which cannot but end in the augmentation of the powers of the latter to such an extent as seriously to endanger the unity of the Colony as a whole.

The third course proposed will have an exactly opposite result. The present holders of office have already signified their readiness to retire. It is understood as a *sine qua non* that proper pensions shall be provided for them on so doing. The principle is admitted that the tenure of these offices is to be changed so soon as the service of the country shall demand it. That is asserted by the Executive Government Bill now before the House. The only question left is one of time, and that consideration it is presumed is not one of such importance as to justify the risk of such grave consequences as delay may produce. Under these circumstances that the wisest course, the course most consistent with the best interests of the country would be, that the present holders of office should place their resignations at His Excellency's disposal, and that so soon as the Executive Government Bill shall have passed, His Excellency should accept those resignations, and should appoint to the offices of Government under that Bill, such persons having seats in the Houses of the Legislature as he may deem best able to conduct the affairs of government in accordance with the views of the Legislative bodies.

(Signed.)

{ J. E. FITZGERALD,
F. A. WELD,
T. H. BARTLEY,
H. SEWELL.

True Copy.

A. J. RICHMOND,
Assistant Private Secretary.

No. 8.

Colonial Secretary's Office, Auckland,
1st August, 1854.

Sir,—Having concurred with the other Members of the Executive Council in advising your Excellency to take such steps as may be in your power for securing the representation of the Government in the Legislature by persons having seats in the Assembly, I have now the honour to tender the resignation of my office as Colonial Secretary of New Zealand, which I have held for a period of upwards of ten years, in order that as far as depends upon myself no difficulty may stand in the way of the attainment of a great public object, and I have to request that your Excellency will be pleased to accept my resignation as early as the public service will permit, in order that my appointment may interpose no difficulty in the way of the establishment of Ministerial Responsibility in the conduct of public affairs.

[True Copy.]

A. J. RICHMOND,
Acting Clerk of Executive Council.

I have the honour, &c.

(Signed) ANDREW SINCLAIR.
Colonial Secretary.

No. 9.

If in the opinion of the Legislative Members of the Executive Council it would tend to facilitate the conduct of the Public Business through the Legislature during the present session, the Attorney-General will place them in a position to state to the Assembly that he has already forwarded to the Secretary of State through His Excellency the resignation of his office, in order that so far as may depend upon himself a full and fair trial may as early as possible be made of the principle of Ministerial Responsibility in the conduct of the Government.

(Signed) WM. SWAINSON, Attorney-General.

August 1st, 1854.

(True Copy)

A. J. RICHMOND, Acting Clerk of Executive Council.

The Colonial Treasurer stated that he would adhere to the original statement made by him on the 10th of June last.

True Extract.

A. J. RICHMOND, Acting Clerk of Executive Council.

No. 10.

Sir,—

Auckland, 2nd August, 1854.

I beg respectfully to request that your Excellency will be pleased to accept the resignation of my seat in the Executive Council.—I have the honour to be, &c.,

(Signed) HENRY SEWELL.

His Excellency the Officer Administering the Government.

(True copy.)

A. J. RICHMOND, Acting Clerk of Executive Council.

No. 11.

Executive Council Office, 2nd August, 1854.

Sir,—As I feel that my presence in the Executive Council can no longer be of public service, I most respectfully beg to resign my seat in that Council into your Excellency's hands.—I have the honour, &c.,

(Signed)

FREDK. WELD.

His Excellency the Officer administering the Government.

(True copy.)

A. J. RICHMOND,

Acting Clerk of Executive Council.

No. 12.

Auckland, 2nd August, 1854.

Sir,—With every feeling of respect, I have to request that you will be pleased to accept the resignation of my seat in the Executive Council.

I have the honour, &c., &c.,

(Signed)

T. H. BARTLEY.

His Excellency the Officer Administering the Government.

(True copy.)

A. J. RICHMOND, Acting Clerk of Executive Council.

No. 13.—Reply to Memorandum of the 1st August, 1854.

Beyond the simple fact of accepting the resignation of the Colonial Secretary, and filling the position by a gentleman from the House of Representatives, I could not think of going. To require the holders of office to resign their posts till I am favoured with the views of the Crown on the steps I have taken, would not only be at variance with the original understanding, and beyond what I conceive my powers to be, but a want of proper respect on my part to the Home authorities.

On assuming my present office, I found three recognised Government officers as my advisers in the Executive Council. Circumstances occurred, to induce me to introduce to that council three members from the House of Representatives, and subsequently a member from the Legislative Council, making a majority of new members.

I found also, on coming into office the old form of General Government in existence. I am now called upon to form an entire new form of Government, without even a reference to my Sovereign; thus throwing on me, during my temporary Administration of the Government, a grave responsibility, which I am not prepared or disposed to bear.

I have sanctioned the link between the Assembly and the Government, by the introduction of four members into the Executive Council. I am prepared to accept the Colonial Secretary's resignation (subject to confirmation) *if voluntarily laid before me*; but I am not prepared to disturb the officers appointed by the Crown, or in any way to establish a new form of Government in the Colony of New Zealand without reference Home.

If the formation of entire Responsible Government is in keeping with the views of the authorities at home, the arrangement is only a matter of time, a few weeks—if, on the other hand, it is not the wish of the Home Government, it is the more necessary I should wait instructions for my further guidance.

(Signed) R. H. WYNYARD.

Government House, Auckland, 1st August, 1854.

True copy. A. J. RICHMOND, Acting Clerk Executive Council.

No. 14.

(Copy)

Auckland, 2nd August, 1854.

Sir,—Having tendered to your Excellency such advice as I was conscientiously bound to tender, respecting the steps which in my opinion are absolutely necessary in order that the government of the colony may be conducted with harmony and benefit to the colonists, and your Excellency having deemed yourself bound to reject such advice, I have the honor to request that your Excellency will be pleased to accept of my resignation of a seat in the Executive Council.

I have the honour, &c., &c.,

(Signed)

JAMES ED. FITZGERALD.

His Excellency the Officer Administering the Government.

(True Copy.)

A. J. RICHMOND, Acting Clerk of Executive Council.

MESSAGE No. 26.

The Officer administering the Government has received from the House of Representatives an Address, dated the 4th instant, enclosing the copy of a Resolution passed by them on that day, embodying a Resolution passed by them on the 3rd, which last Resolution re-asserts their Resolution of the 6th of June on the subject of Responsible Government, and calls for its full and immediate recognition in practice.

In reply, the Officer administering the Government assures the House of his sympathy with their wishes for the complete establishment of Ministerial Responsibility as part of the Constitution of New Zealand; and to the furtherance of this end, by means of altering the Constitution in a constitutional manner, he tenders to the House his unqualified assistance, by assenting to any Bill which they may pass for that purpose, and most earnestly requesting that the Imperial Government will give effect to its provisions.

In the meanwhile he refers the House to his Message No. 25, and once more assures them, not only of his readiness, but of his most anxious wish, to concur with them in immediately giving

to the principle of Responsible Government the utmost practical effect, not exceeding his powers under the Constitution. Short of any violation or evasion of the Constitution Act, he is ready to comply with any proposal that the House may see fit to make to him.

With this view, he is now only waiting for an answer from the House to his Message, No. 25, in order to devote himself to the business of forming an Administration as responsible to the two Houses of the Legislature, as it can be made without infringing the Constitutional law by which the House and himself are equally bound.

R. H. WYNYARD,
Officer administering the Government.

Government House, Auckland, 8th August, 1854.