

quotes two cases in which Ministers tendered him their advice, but he does not quote any instances in which Ministers declined to advise him, nor are they aware that it is possible to quote one. On the other hand, Ministers could quote various instances of the Governor declining to take their advice when it has been tendered. To so great an extent has this practice on the part of His Excellency gone that Ministers feel it is now out of their power practically to carry out their views, theirs and the Governor's being diametrically opposed. The course adopted by Ministers for months has been an endeavour, by tendering advice, to secure the carrying out of the policy which was affirmed by the Assembly—to which they are pledged—and which they believe to be as applicable to the present circumstances of the country, as they did when they proposed it to the Legislature during the last Session. The advice which they have given His Excellency on this point he has declined to follow.

Believing that the rebel natives are far from being submissive—that they have not such a conviction of our strength as to render peace well-founded and lasting—that they are as desirous as ever of driving Europeans from this part of the North Island, and plundering the settlements, Ministers have been of opinion all along that any delay caused by attempting to obtain land from them by cession would be regarded as an act of weakness and indecision on our part, and would be attended not only with no good results, but would be productive of evil in two ways; first by retarding the settlement of the country and continuing expenses which press heavily on the Colony; secondly, by affording the natives time after the defeats they have sustained to regain strength and hope, and so to prolong the war indefinitely.

On these questions of great importance the Governor has differed from Ministers. In the hands of the Governor is all the power; he alone can move troops; he alone can confiscate; he alone has the fate of prisoners in his hands. Ministers are really powerless. They felt under such circumstances, and with the Governor's expressed opinion that they were prolonging the war, that but one course was open to them, that of resigning their offices, after every attempt on their part had failed to induce the Governor to carry out that line of policy which in November last the Assembly understood to be His Excellency's own, and the only one which in his belief really grappled with the existing state of affairs.

The resignations of Ministers have not been accepted, nor has the Governor favoured them with his intentions on the subject. They have felt it their duty to hold office until time has been given for the appointment of their successors. They felt also that under such circumstances, as a rule, they ought not to, and would not be called on to advise on questions of policy. There were, however, some matters of pressing importance, which as far as they knew were not occupying the attention of the Governor. Upon these, in the interests of the Colony generally, they ventured to tender advice, after stating the reasons which induced them to take a course admitted by them to be unusual. They have not in any instance declined to advise the Governor when asked, since the date of their resignations.

They feel, however, strongly, that no advice of theirs can now be of any use. To carry on the Government of the country with effect at the present juncture the views of the Governor and his Ministers must be in unison. The views of the Governor and his Ministers are, upon material points, in direct opposition, and they feel strongly that as Ministers they have ceased to possess any influence whatever. For the Governor to continue asking advice of men who differ so materially from him in opinion upon all the subjects on which he can require their advice seems to them to be unconstitutional and useless. Such a course cannot be in accordance with the interests of the public service, and merely serves to swell the already enormous file of Despatches and Minutes. This, however, is not Government; it is not the work in which practical men of business can be engaged, and it can only add to the difficulties of the present situation.

Ministers are most willing to do all in their power to carry on the business of the country, and are desirous above all things not to embarrass the Governor. Unless, therefore, His Excellency is prepared to relieve them, they will, should His Excellency desire it, continue to conduct the ordinary business of their offices until the meeting of the Assembly, in November next, and give His Excellency all the official assistance in their power, they will also give advice whenever His Excellency may be pleased to desire it, though they cannot see what practical advantage can ensue, as Ministers and His Excellency differ on the most essential points of policy, and in their opinion the action produced by divided councils cannot fail to be both weak and mischievous.

Auckland, October 14, 1864.

F. WHITAKER.

No. 2.

MEMORANDUM by the GOVERNOR.

In reply to the Ministerial Memorandum of the 14th instant on the subject of the Governor's declining in various instances to take the advice that Ministers have tendered to him, the Governor would state that he does not view the matter in the same light that they do. He believes that in the majority of cases in which he declined to act upon their advice, he did so because they advised him to do that which was contrary to law or to equity, and that it would have been no excuse for him in such cases to have alleged that he had acted on their advice, for all persons would have held him responsible for what he did as he believes it can be conclusively shown in such cases as he alludes to, that if he had done that which Ministers advised him to do, he would have done that which was wrong, and contrary to the enactments of the General Assembly. He presumes that such acts on his part, had he done them, would not have been in accordance with the Policy of the Assembly.

If Ministers thought, on any of the occasions to which they allude, that the Governor in declining to follow their advice was preventing them from carrying out the Policy which was affirmed by the Assembly, and to which they were pledged, the Governor submits that the constitutional course would have been upon any such occasion to have resigned. The finances of the Colony were then in a good state, and the Governor thinks that in the event of Ministers having resigned on any of the questions to which he alludes, he could (although necessarily after considerable delay) have found a Ministry which would have agreed with him, that the views he held were in accordance with the legislation of the General Assembly, and which could have satisfactorily conducted the public business.