

1883.

NEW ZEALAND.

THE GRANTING OF REPRESENTATIVE INSTITUTIONS TO THE COLONY

(DESPATCHES RELATIVE TO).

Return to an Order of the House of Representatives, dated 3rd day of August, 1882.

“That there be laid before this House printed copies of all despatches (with enclosures thereto) between the Secretary of State for the Colonies and the Governor of New Zealand, prior to the passing of the Constitution Act, on the subject of the granting of representative institutions for this colony.”—(*Hon. Sir J. Hall.*)

FROM THE SECRETARY OF STATE TO THE GOVERNOR.

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Cost of return, £79 7s. 9d.

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FROM THE SECRETARY OF STATE TO THE GOVERNOR.

No. 1.

COPY of a DESPATCH from Lord STANLEY to Lieutenant-Governor GREY.

(Separate.)

SIR,—

Downing Street, 27th June, 1845.

You will see in the late parliamentary discussions on the subject of New Zealand some subjects have been prominently noticed, on which it may be desirable that I should address to you some further explanations. . . . Another subject to which your attention will have to be directed will be the demand which will probably be made for the extension of representative government to New Zealand. By representative government, I mean the constitution of an elective Assembly, with general powers of legislation for the colony. I should be very glad, if I could think that, in the present condition of the colony, it was practicable to adopt this course; but the objections to it appear to me at present to be insuperable. The first of these naturally arises from the position of the Native inhabitants, whom I consider it would be equally impossible to admit to the exercise of the franchise, and unjust to subject to the control of a popularly-elected body, not only not representing their interests, but in many respects having interests altogether opposed to theirs. But an additional and very serious difficulty presents itself in the small number and extreme dispersion of the European inhabitants. The distances between the various settlements are so great, and the means of communicating between them are so restricted, that even if it were possible to find in each of them persons properly qualified to represent the interests of their several constituencies, such persons would not have the inclination or the leisure to resort to the capital, and abandon their own pursuits, for the length of time which would be requisite for the sitting of the Legislature. For these among other reasons I think the admission of the representative system is, for the present, impracticable; and I would, therefore, have you direct your attention and that of the colonists to the formation of local municipal bodies, with considerable powers of taxation for local purposes, and of making the necessary by-laws, leaving the more general powers of legislation vested in the Council as at present constituted. Looking to the peculiar circumstances of New Zealand, I should not object to extend the authority of those local bodies over a considerable district of the surrounding country, of the extent of which you would in each case be the judge, having in view the local circumstances, and especially the facilities of forming the districts so as not to include any large number of Natives. Those who might happen to be interspersed with the Europeans in small numbers would, of course, be admitted to all the privileges and subject to all the restraints and obligations of the local laws and regulations. On those bodies I think you will find it advisable to throw, as far as possible, the burden of so much of the expenditure of your Government as can fairly be considered to be of a local character, thus endeavouring to obviate objections which might be raised to the disproportion between the taxation of any particular locality and the benefit derived to it in the expenditure of the public revenue.

I have, &c.,
STANLEY.

No. 2.

COPY of a DESPATCH from LORD STANLEY to Lieutenant-Governor GREY.

(No. 28.)

SIR,—

Downing Street, 15th August, 1845.

In order to enable you to give effect to that portion of Mr. Hope's letter which relates to the assumption into the Council of persons delegated by the Municipalities, it will be necessary that, as soon as the arrangement shall have been made to enable the Municipalities to designate the parties whom they wish to be included in the Legislative Council, you should nominate the persons thus designated; and, in order to maintain in the Council a majority of the undelegated members, power should be given to you to increase its numbers. For this purpose, an additional instruction under the Royal Sign-Manual is requisite, an instrument which cannot as yet be prepared, but which it is my intention to advise Her Majesty to issue.

I have, &c.,

STANLEY.

EXTRACT from LETTER from MR. G. W. HOPE to Lord INGESTRE.

MY LORD,—

Downing Street, 7th August, 1845.

I am directed by Lord Stanley to state to your Lordship, for the information of the New Zealand Company, that his Lordship has carefully considered your letter of the 24th ultimo, and the suggestions which it contains, and that, although he does not feel himself able, consistently with the principles to which you advert as having been laid down by him, and upon which your suggestions are intended to be based, fully to acquiesce in those suggestions, Lord Stanley trusts, nevertheless, that, in the arrangements which he now proposes, the New Zealand Company will recognize the sincere wish of himself and Her Majesty's Government to go as far as their duty will permit towards diminishing or remedying the difficulties under which the New Zealand Company and those who have emigrated under their auspices are now labouring.

* * * * *

With regard to the constitution of the General Legislature of New Zealand, as the Company are aware of the objections which exist to a representative Assembly, it is unnecessary to enter upon them.

I am to state, however, that Lord Stanley acquiesces in the view of the Company, that the Council should have more of a representative character than at present, and Lord Stanley will not object to giving such instructions to the Governor as may secure the presence in the Legislative Council of a limited number of persons delegated from the respective municipalities, though not to such an extent as to give an absolute majority to such delegated portion of the Council.

I am to add that the constitution and powers of the proposed municipal bodies, and of the districts which they are to superintend, the mode in which delegates to the Council should be selected, the organization and functions of the Council itself, are subjects which will require much careful deliberation, and upon which Lord Stanley cannot form a definitive opinion until there shall have been ample time for preparing and considering the details requisite for arrangements of this nature.

I have, &c.,

G. W. HOPE.

No. 3.

COPY of a DESPATCH from LORD STANLEY to Lieutenant-Governor GREY.

(No. 54.)

SIR,—

Downing Street, 29th November, 1845.

In my despatch, "Separate," of the 27th June, I intimated to you generally that Municipal Corporations ought to be established in New Zealand, with extensive powers.

In my despatch of the 15th August last, No. 28, I addressed to you instructions on the subject of an improved constitution of the Legislature of New Zealand, by introducing into it members to be selected for that purpose by the Municipal Corporations; and I also stated an opinion that it was necessary an instrument should be issued by Her Majesty for enlarging the number of the members of the existing Legislature, so as to provide for the admission into that body of the new members to be nominated by the Municipal Corporations. The fulfilment of the intention of transmitting to you these instruments was unavoidably retarded by the arrival of that period of the year during which the meetings of the Privy Council are discontinued, a period which circumstances prolonged more than usual during the last autumn. Further deliberations and inquiry, during the interval, have convinced me that, although a considerable immediate advance may be made towards the accomplishment of the design thus announced to you, the final completion of it must be a work of more time, and perhaps of greater difficulty, than I had anticipated.

The existing constitution of the Legislature of New Zealand is briefly as follows: It consists of the Governor and six other members, three of whom sit there in virtue of their offices, the other three holding their seats as being the three senior Magistrates in the Commission of the Peace. As that Commission is issued and renewed by the Governor at his pleasure, the three unofficial members of the Legislature are substantially, and in fact, the Governor's nominees.

Municipal Corporations in New Zealand must exist, if at all, in virtue of the local Act 8 Vict., Session III., No. 12, which Act provides that every settlement with a population of two thousand souls may be incorporated by a Proclamation to be issued by the Governor, and that every such Corporation shall be governed by a Mayor and eleven Aldermen. The ordinance defines the powers of every such corporate body. It is, however, suspended for the signification of Her Majesty's pleasure, which has not yet been intimated. The first and most important step, therefore, is the confirmation of this

ordinance; and I have received the Queen's commands to acquaint you that Her Majesty has been graciously pleased to confirm and allow it.

It will thus be in your power to establish a Municipal Corporation in every settlement in New Zealand possessing the requisite number of inhabitants, a description which I find from the population return for the year 1844 includes only the settlements of Auckland, Wellington, and Nelson. It will be necessary that you should, with as little delay as possible, issue Proclamations for the establishment of such corporate bodies in these three settlements. These corporate bodies being thus constituted, you will invite the Council of each of them to suggest the name of a proper person to become a member of the Colonial Legislature. Assuming, as it may of course be assumed, that the recommendations will be made in favour of gentlemen of unexceptionable loyalty and moral character, it will be necessary that you should introduce them into the existing Legislature, by placing them in those positions in the Commission of the Peace to which seats in the Legislature are attached. For this purpose it will be necessary to supersede the three gentlemen at present sitting there by the Governor's nomination. It is a measure which I contemplate and adopt with regret, as it may convey to the local society an unfounded impression that some reproach attaches to the conduct of the present unofficial members of the Council, or some of them. Every effort must of course be made to counteract and dispel any such misapprehension, and to the gentlemen themselves you will most studiously explain that the real and only motive by which I have been guided in giving such instructions is the desire to make the necessary commencement of a more popular and constitutional scheme of colonial government.

When the local Legislature shall have been thus recruited, you will lay before them the project of an ordinance for amending the ordinance of the 8th Vict., Session III., No. 12. The object of that amendment will be chiefly the enlargement of the powers with which that statute invests the corporate bodies. Under the existing ordinance their powers are as nearly as possible the same as those of the Municipal Corporations in England. But, as I have already stated in my despatch of the 27th of June, considering the extent and physical character of New Zealand, more than this would seem to be requisite. Adhering to the principle there laid down for the definition of the districts to be included in them, each municipality will form the nucleus of a population intimately connected with each other, and, with the exception of Auckland, but very remotely connected with the central Government. It will be necessary, therefore, to impart to these Corporations a larger participation than is usual elsewhere in the powers of that Government. Especially their by-laws ought to be of avail for the establishment of local Courts of justice, in cases, civil or criminal, of inferior amount; for the foundation and support of schools, as provided in the case of District Councils in Canada and New South Wales; and for the imposition of rates and assessments for defraying the expense of the institutions above referred to, and also of every description of public work required for the safety or convenience of the locality. In effect, each of these communities should enjoy as much of the right of self-government as may be reconciled with their subordination to the Colonial Legislature in everything which affects the welfare of the colony at large, or the general interests of the colonists.

In bringing forward the suggested project of ordinance, an opportunity will conveniently arise for making other amendments which may be found advisable: and I shall accordingly, at the close of this despatch, point out such as appear to me to be advisable.

Supposing the number of settlements containing each a population of two thousand souls to continue limited to three, and that amount of population to be required as a preliminary to the grant of municipal privileges, the objects of providing for their representation in the Council, in the terms stated in Mr. Hope's letter to Lord Ingestre of the 7th August, and for the enlargement of the powers of the municipal bodies, would both be accomplished by the course above indicated, without any such alteration in the instruments on which the Constitution of the colony is founded as contemplated in my Despatch No. 28, of the 15th August. But when the new Municipal Corporations shall have become numerous there will of course arise a demand for an increase in the total number of the members in the Legislature, and possibly for new provisions respecting the delegation by the corporate bodies, or by the more considerable of them, of representatives in the Legislative Council. These, however, are changes which, if possible to avoid doing so, it is better not to originate at this distance from the scene of action; and, having been able for the present, by the method pointed out, to provide, in conformity with the terms of the existing Constitution, for the introduction into the local Legislature of the popular element in the required proportion, I must impose on you the duty of considering and reporting in what manner any fuller provision would be most advantageously and effectually made for blending together in the local Legislature the two component parts of which it will have to consist—that is, members sitting by Royal nomination, and members sitting in virtue of a corporate delegation or choice. The principle will be introduced at once. The adaptation of it to the wants of the local society will be a work of greater deliberation and delay. But, whatever may be the inconvenience likely to result from that delay, I am convinced that it will be more than balanced by the advantage of acting in concurrence with you, and with the benefit of your counsels, on a subject on which you possess, in such abundance, the means, the want of which I feel sensibly at this distance, of forming a sound and practical judgment.

With respect to the further amendments in the ordinance to which I have alluded as desirable, I must observe in the first place that, having regard to the peculiar manner in which the colonization of New Zealand has proceeded, and to the dispersion and distance from each other of the several settlements which are already established or in contemplation, I conceive it to be advisable not to limit the Governor's power of incorporation to towns or districts containing two thousand inhabitants or upwards.

I can readily believe that, as respects a remote settlement, such as that which is proposed to be founded at Otago, it will be necessary to confer upon it the advantages of municipal organization as soon even as its population shall have reached the limit of a thousand persons. I think, therefore, that the requisite minimum of population should be reduced by the amending ordinance to that limit, although the power of incorporating, thus extended, should not be exercised by the Governor in respect of any place or district whereof the population is less than fifteen hundred, unless in the case

of very remote separate settlements. Similar considerations induce me to recommend that the limit of the proposed boundaries of the boroughs should be left to the discretion of the Governor and the Executive Council, instead of being confined to the distance of seven miles from the market-place of each town.

I do not perceive in the ordinance any provision for giving the powers of Magistrates to any of the officers of the Corporations. Some of its enactments, however, appear to allude to Police Magistrates having authority in the boroughs. Adverting to the intentions of the ordinance as explained in its preamble, I think that the principle adopted in the English Municipal Corporation Act on this point should be followed, and in some degree extended, and that the Mayor and one or two of the Aldermen of each borough (such one or two Aldermen to be selected either by the Council of the borough or by the Governor) should be *ex officio* Magistrates of the borough, and that the appointment of a stipendiary Police Magistrate or of a paid Recorder in any borough should only take place after the same expressions of the opinion of the Council as are made requisite in the like cases by the English Municipal Corporation Act.

The 67th clause of the ordinance excepts from borough rates and assessments the property of any aboriginal inhabitants of the colony. This is not in accordance with the views which I conveyed to you in my despatch of the 13th of June last, in which I contemplate the admission, to a limited extent, of Natives to the privileges, and at the same time to the liabilities, of the local laws. This exemption, therefore, should be repealed by the amending ordinance, and in arranging the boundaries of the municipalities it should be borne in mind that, although it would not be expedient to have too many Natives included in the borough, yet that advantage will doubtless result from the admission of a limited number of them, who may thus become familiarized with the duties and privileges attached to the possession of property and to citizenship in a civilized community.

I have only further to notice two points of minor importance—namely, that, instead of the oath of office required by the ordinance, a declaration, with the usual sanction, may be advantageously substituted; and that it appears to be necessary to prevent persons casually present in a borough from being placed in the burgess roll, by limiting the meaning of the expression “inhabitants of a borough” to those who are *bonâ fide* resident.

I have, &c.,
STANLEY.

No. 4.

COPY of a DESPATCH from the Right Hon. W. E. GLADSTONE to Lieutenant-Governor GREY.

(No. 5.)

SIR,—

Downing Street, 31st January, 1846.

Since my accession to this office it has been my duty to review the various despatches in relation to the affairs of New Zealand which were addressed to you by my predecessor on the 27th of June, the 15th of August, and the 29th of November last year; and my present purpose is to convey to your mind the assurance that you will receive from me a zealous support in the effort which you may make to give full effect to the wishes which Lord Stanley, on the part of the Government, expressed to you in those despatches for the better social organization of the British community in New Zealand.

It likewise occurs to me that it may possibly be of some service, and that it is not likely to tend to your embarrassment, that I should state to you, in the most succinct manner, my understanding of the general principles to which the despatches of Lord Stanley were intended to give the utmost practicable degree of effect. The desire and purpose of Her Majesty's Government is that the colonists of New Zealand, being as they are of British blood and birth, and not affected otherwise than as it may be casually by the infusion of actual and emancipated convicts into their community, should undertake, as early and with as little exception as may be, the administration of their own affairs. This desire you will consider as the key to the particular instructions of my predecessor: by it they are to be tried, to be harmonized, and to be interpreted. The difficulties which may impede the full operation of such a principle in an infant community, and especially in an infant community under the local circumstances of that now subsisting in New Zealand, are obvious. It is for you to suggest the specific means by which they may be mitigated or overcome. It is for me to indicate those general views by an approximation to which, in so far as you may find such approximation feasible, you will best fulfil the intentions of Her Majesty's Government.

Her Majesty's Government, then, are desirous that these difficulties should be met, in the first instance, by assigning prospectively to the Municipalities about to be erected as considerable a share in number and weight of governing functions as they may be found capable of sustaining, and then of determining upon the arrangements most proper for the discharge of those duties which may be fit subjects for the application of the representative principle, but which the Municipalities may not be suited to undertake.

With respect to the central organ of Government, and to the infusion of the popular element into it, which my predecessor has directed in his despatch of the 29th of November, 1845, you are at liberty to consider that infusion as the first or experimental effort—as the minimum and not the maximum weight which is to be assigned in that sphere to the principle of representation.

I shall be desirous to learn from you the conclusions at which you may arrive, or towards which you may lean, not only upon the division of legislative functions between the Municipalities and this central organ, but likewise upon the constitution of this latter body; to know whether you conceive the time has arrived at which it may properly assume the form of an Assembly founded chiefly upon representation; whether it should consist of a single or of a double Chamber; whether it may be possible to mitigate the inconveniences arising from the wide dispersion of the colonizing population, either by periodical change in the place of meeting, or by larger intervals than are usual between the sessions of legislative Houses acting under physical circumstances of a character less obstructive. There is, however, one important limitation which Her Majesty's Government, as at present advised, think it

necessary to impose upon the principle of local self-government in its application to New Zealand. Of course I do not mean by this the general control and supervision of the Imperial Parliament, and of the Queen's Advisers, which is necessary without any reference to such restraints, for the purpose of drawing the line between Imperial questions and such as may justly be considered to belong to the colonial sphere; but I advert to the necessity for a due caution in the regulation of the relations of the colony with the aborigines, and of a due vigilance in the maintenance of their just rights. I conceive it to be an undoubted maxim that the Crown should stand in all matters between the colonists and the Natives; and the reasons which recommend to my mind any arrangements for securing to the former the control of the concerns and of the members of their own community, by no means carry the same presumptive weight if it be attempted to extend them to the support of the proposition that the authority so conceded to them should cover the whole territory of New Zealand, and all persons alike who inhabit it. Independently of any jealousy or suspicion, or of the apprehension of positive evil in any form, I am disposed to think the most natural and obvious mode of providing for our relations with the Native tribes would be to reserve to the Crown a very large share of authority, real as well as nominal, active and not merely dormant, in that department of the functions of the Colonial Government.

How this course may be kept free from practical difficulties, by assigning local limits to the exercise of municipal or other representative authority; how to prevent the very injurious consequences which might arise from a separation too sharply defined, in perpetuating jealousy between the races, and in discouraging the incorporation of the less with the more advanced; how to preserve a full scope for the operation of the plan of Native reserves, which, if it can and shall be executed according to its spirit, well deserves, in my judgment, the commendation it has received from a Parliamentary Committee: these are among the problems for the solution of which I expect to derive the most material aid from the free communication of your views.

I have no occasion, in a general sketch of this kind, to address you with respect to the New Zealand Company, further than to state my anticipation that all your measures in regard to it will be governed by a desire not only to be in harmony with its agents, but also to render it, according to its powers and within its own sphere, an efficient instrument of colonization.

I have, &c.,
W. E. GLADSTONE.

No. 5.

COPY of a DESPATCH from the Right Hon. W. E. GLADSTONE to Lieutenant-Governor GREY.

SIR,—

Downing Street, 26th May, 1846.

Since I last addressed you on the 18th March, in a Despatch numbered 12, with reference to the affairs of New Zealand, information has been received and events have occurred in this country to which I shall cursorily refer, inasmuch as they form the basis of the further observations which, on the part of Her Majesty's Government, I have now to convey to you.

Her Majesty's Government have learned the failure of Captain Fitzroy's negotiations, and have found that up to the close of the last year the insurgents continued in arms, and no progress other than in the way of preparation had been made towards their reduction. The general effect of the intelligence received from the northern portion of New Zealand has been by no means to diminish, but on the contrary to magnify, the idea which had been previously entertained of the difficulty of the work in which you are engaged, and of the demands which its nearest exigencies are likely to make on your time and attention.

It has also appeared from the despatches of the late Governor, and their enclosures, relating to the grants of land at Wellington and Nelson, and from the correspondence between this department and the New Zealand Company, that the difficulties of a different order which have obstructed the progress of the southern settlements, and have effectually shaken the public confidence in this country with regard to their stability, have not been mitigated. The grants of land issued to the Company have conditions annexed to them, of which it is far from my present purpose to determine or to discuss the intrinsic propriety, but of which the consequence has been that, whether wisely or unwisely, the Company and the Company's settlers have declined to avail themselves of them, and have chosen rather to forego the opportunity which they ought to have afforded for an attempt by their means to set at rest those questions with regard to titles to land which have been up to the present time so embarrassing and obstructive. The Company's settlers have also transmitted to this country a petition in which they detail at great length what they conceive to be the causes of all the evils that have so much retarded the prosperity of the colony, and so ruinously wasted the resources of many of its European inhabitants. Nor can it be doubted by Her Majesty's Government that, whoever be the parties to blame, however just or however unjust, the reasoning in which this petition abounds, the case of the parties themselves is one that loudly calls upon the Government and the Legislature for sympathy and, if it may be so, for aid.

Lastly, a correspondence with the New Zealand Company has been in progress, from which it has now appeared that, while the assets of that body amount to only £52,000, its liabilities are not less than £349,000; that its means of carrying on the work of colonization are exhausted; and that its restoration to a condition in which it can be made serviceable to the public for that end has become a work of the greatest difficulty. The occasion for speedy relief is urgent; unless, indeed, it be speedy it must be unavailing; and yet the accounts which have been received from the colony all point towards the conclusion that a long time might elapse, even under the most favourable supposition, before measures devised on the spot and recommended by you for adoption at Home could, in the ordinary course, receive the sanction of Her Majesty, and then, after their retransmission to the colony, be carried into effect. The New Zealand Company itself has submitted to the Government a remedial project, which they have found it their duty to decline, for reasons which you will find indicated in Lord Lyttelton's letter to Mr. Harrington of the 30th April, of which a copy is annexed.

It is, however, an object of great importance to re-establish, if it be practicable, and with the least possible delay, the confidence of the British public with respect to the colonization of New Zealand.

I had, as long as it appeared reasonable, indulged the hope that on your arrival in the colony you might have found disturbance at an end, and might have been permitted accordingly at once to apply your mind to the civil and social questions which appertain to your present charge, including the means of relieving the Southern or Company's settlers from their embarrassments with respect to title and with respect to the disadvantage at which they may be placed from the present political organization of the country. But the intelligence which I now possess from your own despatches, as well as from the recent incidental notice of a later date, has dissipated the hope to which I was thus disposed to cling; has brought out more distinctly the apprehension that much time might elapse before you could forward propositions so comprehensive as to provide for meeting the whole of the various difficulties of the colony; has suggested the question whether you have not ample occupation provided for you in the North; and whether it may not be possible to take some early and direct manner from hence which may have the effect at once of alleviating your task, and of extricating a portion of New Zealand at least from those complicated embarrassments in which the whole of it is at present involved.

At the present moment the intentions of Her Majesty's Government, which must necessarily vary more or less with the information they receive, are as follows:—

They will await the result of the military operation in which, at the date of the last advices, the Queen's forces were engaged. They expect that this intelligence may probably be brought by the next arrival, and that it may communicate an issue of the greatest importance, either involving the general submission of the revolvers, or the menacing a prolongation and an extension of hostilities. Upon receiving this intelligence they will consider and decide whether it may be right for them to make any application to Parliament for an Act relating to New Zealand during the present session; and likewise whether, if they should make such application, it should be in order to effect certain purposes by direct enactment, or in order simply to enable Her Majesty to effect these purposes at the time which she may deem suitable.

These purposes have been already indicated in my former despatches as fit subjects for your consideration: the division of the colony, the creation of representative institutions, and the extinction of disputes with respect to land claims. Of these, the fundamental idea is the division of the colony, not, however, considered as an end but as a means: as a means to be employed in order to facilitate the immediate application of those measures which may be regarded as the best guarantees of confidence here and of prosperity in the colony. Such measures I conceive to be a provision for the speedy and effectual termination of the prolonged uncertainty respecting titles to land, and the establishment of representative institutions.

I must shortly indicate to you the considerations which have disposed Her Majesty's Government to believe that the division of the colony is likely to prove the best preparation for a solution of the existing difficulties. Some of these have reference to temporary circumstances; others, causes of a more permanent order. Under the former head I may remark, first, that the hostilities which have now prevailed for some time in the North, even supposing them to have already ceased, as I trust may prove to be the case, may, notwithstanding, leave behind them a sense of insecurity and a fear of their recurrence, at least in the public opinion of this country, as connected with the region in which they have happened, that may, perhaps, not be removed until after the lapse of a considerable time. Secondly, it appears to Her Majesty's Government that the more close neighbourhood and intermixture of Natives and settlers in the North may render the introduction of representative institutions in that quarter a work of difficulty, needing time and much care, and may require the retention of checks which would under other circumstances not be necessary or desirable. Thirdly, I cannot but continue to apprehend that you may experience difficulties of a serious kind in re-establishing throughout the whole of the northern parts of New Zealand the exclusive right of the Crown to pre-emption of the Native lands. I am not surprised at your strong disapproval of the surrender of that right, indeed, I have every disposition to concur in it; but I must not expect that you will be able at once to undo the complex difficulties which the transactions under Captain Fitzroy's Proclamations may be found to have occasioned. On the other hand, in the South there may be the means of at once escaping the disadvantages which the idea of insecurity attaches to the colonization of New Zealand. In the South it may be practicable at once to introduce popular institutions; it may probably be not unsafe nor unwise to re-establish somewhat peremptorily the pre-emptive right of the Crown. All this points to a separation of the southern from the northern parts of New Zealand.

Other and more permanent causes, tending to operate in the same direction, are these which follow: The immense range of distance between the Bay of Islands, near an extremity of New Zealand, and Otago, and the whaling settlements approaching towards the other, appears to suggest objections to the combination of them all under a single Government. The differences of feeling which have become so highly inflamed, and the sense of injustice so keenly expressed by the settlers on the Straits, must of themselves be regarded as social evils of no trivial character, and must prove for a considerable time real obstacles to harmonious co-operation. The infrequency of communication between Auckland and the Straits impedes the working of the machine of government, which it has hitherto been endeavoured to apply to both in common; and, while I am entirely unprepared to acquiesce, as at present advised, in the abandonment of Auckland, I am impressed with the idea that it must be very difficult to combine it with the settlements on the Straits under a single Government without stimulating in the one quarter or the other a spirit of discontent. Again, the very unequal distribution of the Native inhabitants over the long and narrow tract of these Islands appears to point towards different modifications of British law and usage as applicable respectively to those parts where the feebler race are likewise a numerical minority, and to those where they are and must long continue to be the larger number, and where much more scope cannot be given to the consideration of their customs and institutions in determining the particular laws that are to govern the colonists. Again, the connection of so many southern settlements with a charter association at Home, and the absence of such connection in the North, present another feature of striking difference. And all these circumstances, some of more temporary, some of more permanent, account, appear to converge upon the conclusion that the most natural solution or

alleviation of the difficulties of New Zealand may probably be reached through a division of the colony.

I have been desirous to give you the earliest intimation that such suggestions as these are under the consideration of the Government, even before I am able to define to you with any degree of precision the probability of their entire or partial adoption. If the Government should ask only for enabling powers, what they do in that case will simply place them in a condition to act with greater despatch upon any information and recommendations which they may receive from you, than if they were obliged to wait the approach of a new session of Parliament. If they should obtain enactments of a positive description, it will not be without a sense of the inconvenience which attends such a mode of proceeding, or any mode other than that of acting in systematic and uniform correspondence with the chief executive officer of the colony concerned. But they can only decide upon the question after a mature consideration of the urgency of the reasons which press upon them for making an attempt to revive the movement of colonization towards New Zealand from hence, and with the best judgment they can form as to the probable state of the colony at the time when the result of their measures may become known there, and as to the probable course of your own exertions and of your measures in the intervals. It is not in the least degree likely, I may venture to assure you, that they should adopt any decision here which could have the effect of fettering your discretion, or of obstructing your proceedings with respect to the affairs of the Northern Island in general. If they shall determine, as it is possible they may, to act decisively, and yet not as the result of previous correspondence with you, it will, I am convinced, be simply in the way of circumscribing the local range of your exertions by the erection of portions of New Zealand into a separate colony. They will, in that case, be careful to determine the limits of those separated portions in such a manner as to obviate the risk of inconvenient interference with your plans for the adjustment of the relations between the settlers and aborigines. They will not include in the portion removed from your present government any district except it be some one with regard to which they may feel justified in the belief that no such inconvenience can be caused by its removal. The Middle Island will, as you may readily anticipate, form the principal part of the new colony if it should be erected. No addition will be made to it from the Northern Island unless with respect to tracts occupied by the Company's settlers, and then within such limits and under such conditions as they may conceive to be perfectly secure with reference to the dangers to which I have adverted.

In thus endeavouring to indicate to you the general outline of a course dependent on many contingencies, my object has been to give you the earliest information on the subject which may have important, though, I trust, not embarrassing relations to your own proceedings. Before the end of the month of June it will, I think, be absolutely requisite that the Government should have arrived at its decision; and, therefore, I have the hope that the partial uncertainty in which this despatch may leave you may, at all events, be of short duration.

Lieutenant-Governor Grey, &c.

I have, &c.,

W. E. GLADSTONE.

No. 6.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 23.)

SIR,—

Downing Street, 23rd December, 1846.

You will have been apprised, long before your receipt of this despatch, that in the last session of Parliament the Act which I now enclose was passed for the better government of New Zealand. The motives which suggested such an enactment are best explained by a general reference to the correspondence between yourself and preceding Governors of the colony on the one hand, and myself and my predecessors in office on the other. Any more specific retrospect would, for my immediate purpose, be superfluous. It is enough to say that the necessity of a fundamental change in the system adopted by the Charter of November, 1840, has been insisted on by all parties to the discussion, and that there is an almost equally unanimous concurrence among them in the opinion that the change should be in the direction of calling the settlers to participate much more largely in the business of legislation and local self-government. The accompanying Act is accordingly framed on that principle. For the institutions established under the Charter of November, 1840, it contemplates the substitution of Municipal Corporations for the government of each separate district of New Zealand which is or which shall be settled by colonists of European birth and origin. Every such district is to be erected into a borough; every such borough is to elect a Common Council, from which are to be chosen a Mayor and a Court of Aldermen; every such Common Council is to elect members to serve in a House of Representatives, forming one of the three Estates of a Provincial Assembly. For this purpose the whole of New Zealand is to be divided into two or more provinces. In every such Provincial Assembly laws will be made for the province by the House of Representatives, by a Legislative Council, and by the Governor, who together will constitute the Provincial Legislature.

But as there are many topics of general concern to all the inhabitants of New Zealand, respecting which some uniformity of legislation and of administration will be indispensable, it is further provided that a General Assembly of the New Zealand Islands shall be holden by the Governor-in-Chief. That General Assembly will be composed of himself, of a Legislative Council, and of a House of Representatives. But no one will be a member of the Legislative Council of the General Assembly who is not also a member of one of the Legislative Councils of the Provincial Assemblies; neither will any one be a member of the House of Representatives of the General Assembly who is not a member of one of the Houses of Representatives of the Provincial Assemblies. In order to adapt the system of the local Executive Government to this scheme of provincial and general legislation, the Charter (if the mere text of that instrument be alone regarded) provides for and supposes the creation of five different offices: they are a Governor-in-Chief of New Zealand, a Governor of each province, and a Lieutenant-Governor of each. But the actual appointment of five such distinct officers forms no part

of the design at present entertained. It is proposed to address to the same person the commissions of Governor-in-Chief and of Governor of either province, and to address to another person the commissions of Lieutenant-Governor for each. Although, with a view to precision and to various technical considerations, all the offices in question are mentioned in the Charter as distinct, they will thus (at least for the present) be combined in the hands of two persons only. Of these, the highest—who will be at once Governor and Governor-in-Chief—will be the official superior of the other, who will be designated in each province as the Lieutenant-Governor of it. The relation will not be one of mere precedence and rank, but will carry with it effective authority on the one hand, with subordination and obedience on the other hand. To the Governor-in-Chief it will belong exclusively to correspond with Her Majesty's Secretary of State having the Department of the Colonies. To the Lieutenant-Governor it will belong to correspond exclusively with the Governor-in-Chief. The authority and control exercised by the Secretary of State over the Governor-in-Chief will by the Governor-in-Chief be exercised over the Lieutenant-Governor. That authority will extend even to the suspension of the Lieutenant-Governor from office, if unhappily the necessity for so extreme a measure should ever arise. The Governor-in-Chief will fix his own place of residence according to his own estimate of the greater or less demand for his own presence in one or in the other province. But, wherever he may be, he still acts as Governor of the province in which he may be resident, and as Governor-in-Chief of the whole of New Zealand, directing and controlling the acts of the Lieutenant-Governor as often as he may think any such control or direction requisite.

To provide for the administration of the Executive Government of either province from which the Governor-in-Chief may absent himself, it will be in his choice, according to his view of the exigencies of the public service, either to call on the Lieutenant-Governor to reside and act for him there, or to appoint a Lieutenant-Governor for the purpose, whose appointment will be made to terminate on the Governor-in-Chief's return and resumption of his own office as Governor of the province for which such temporary appointment may have been made. You will find that the necessary powers for this purpose are created by the Charter.

In favour of this scheme of municipal, legislative, and executive polity, I rely on the following considerations: It is framed with as close an adherence as circumstances would allow to the model of our English institutions, an object which I regard as of the highest importance in every such design. It adheres as nearly as practicable to that scheme of colonial policy once diffused over the greater part of the North American Continent, and still surviving in our remaining colonies there, and yet to be distinctly traced in the Constitutions of the flourishing States now united into the great American commonwealth. It provides for the local self-government of districts in a country where the dispersion of the settlements is such as to render any one central authority incompetent to that task. But while public spirit and a practical acquaintance with public affairs will thus be cherished in every part of New Zealand, the erection of provinces and Provincial Assemblies will, I trust, counteract the tendency which such corporate institutions must otherwise have to disunite, in interest and in feeling, the various and remote districts from each other. Natural causes forbid the combination of all those districts in the choice of members to serve in a single Assembly for the whole of New Zealand, but two such Assemblies at present, and perhaps more than two such hereafter, may be sufficient to consolidate and cement and protect the interests of the various separate boroughs. To prevent those intercolonial contests of such frequent occurrence elsewhere, and to watch over the general interests of the whole country, the General Assembly is charged with the exclusive care of those interests and with no other function. The circumstance that the General Assembly will consist of members chosen by the Provincial Assemblies out of their own number will, I hope, prove an effectual security against the otherwise too probable conflicts between the local and the general Legislatures. I anticipate, however, that for some time to come the occasions which will arise for calling together the General Legislature will be exceedingly rare, and the amount of business to be transacted by it very small; it will only be necessary that it should meet when some change is required in the existing law upon those subjects with which the separate Legislatures will not be competent to deal.

By placing the Corporations and the Houses of Representatives in the relation of constituents and representatives of each other, they will have such common interests, with so much of mutual control, as probably to maintain them both in the possession of their appropriate powers without the risk of encroachment on either side.

The scheme of executive government which I have briefly explained will assure to the various authorities, municipal and legislative, of New Zealand, the benefit to be derived from unity of purpose and uniformity of system in the conduct of the administrative branch of the public service.

To this project it has been objected that it introduces a system too complicated to be easily understood or efficiently executed. The answer to that objection, I think, is that the inevitable conditions of the practical problem to be solved were more than usually numerous and complex. So wide is the extent of the whole territory, so remarkable the dispersion of the settlements there, so many the impediments to rapid intercourse between them, and so strangely contrasted the habits and characters of the different races of the inhabitants, that it became necessary at least to attempt the reconciliation of opposite and yet co-existing dangers. There was the danger of enervating all the springs of Government by the undue dispersion of separate authorities, and there was the danger of impeding the useful action of the Government by an undue centralization of its powers. In the Act which was submitted to and sanctioned by Parliament, Her Majesty's Government attempted as far as possible to escape from both of these difficulties. Whether the scheme adopted affords the best attainable reconciliation of them or not, it will scarcely be denied that they were serious difficulties, and admitted of no safe solution of a short and simple character.

But in framing the Act Her Majesty's Government were not forgetful of their extreme liability to error when acting in reference to a state of things so remote from their observation, and from their own personal experience in the business of civil administration. It was therefore studiously provided that the adaptation of this law to the local circumstances of New Zealand should be transferable to those who would bring to the discharge of that duty the greatest amount of local knowledge,

and the best opportunities of ascertaining the state of public opinion amongst the colonists. The broad outlines of the scheme having been partly drawn by Parliament, and the Queen in Council being authorized to complete these outlines, Her Majesty was also empowered to delegate to the Governor-in-Chief the duty of filling up all the various details; and so wide are these powers of delegation as to supply a remedy for any errors of mere ignorance or oversight into which Her Majesty's Confidential Advisers may have unconsciously fallen.

I now transmit to you four instruments for carrying this Act of Parliament into effect. Of these, the first is a new Charter for the Government of New Zealand. It is little more than a mere creation of the powers, municipal, legislative, and administrative, which the Act of Parliament authorizes the Queen so to create. It repeals the Charter of 1840, leaving it, however, to the Governor-in-Chief to determine at what time the new Charter shall be promulgated and brought into operation. You will observe that the Act of Parliament enables Her Majesty for a limited time to continue in force, as regards the Province of New Ulster, the Charter of 1840. When this measure was submitted to Parliament, there seemed reason to believe that it might be desirable to make a distinction between the northern and the southern settlements with regard to the time at which the intended change in the form of government should come into operation; but more recent information has led to a different conclusion, and accordingly Her Majesty has not been advised to avail herself of the power with which she was invested in this respect. The second instrument is the series of Instructions under the Royal Signet and Sign-Manual to which the Charter refers. This, as will appear in the sequel, is the instrument in which the plan of the new Constitution is exhibited in all the detail in which it has been possible to prepare it in this country. Technical reasons, into which I need not enter, render it highly convenient to make the Instructions, rather than the Charter, the channel signifying the Royal pleasure at full length and circumstantially. The third of the accompanying documents is your own appointment as Governor-in-Chief of New Zealand, and as Governor of each of the provinces into which those Islands will be divided. The fourth and last instrument constitutes Mr. Eyre Lieutenant-Governor of each of the two provinces which it is now proposed to establish.

It may be convenient that I should in this place point out how vacancies in these offices are to be filled provisionally whenever the necessity for such provisional appointments may arise. If the Governor-in-Chief should die, or otherwise create an unexpected vacancy, the following is the order in which the various officers capable of a provisional succession will be called to it, each later designation always supposing the absence from New Zealand of any person bearing the immediately preceding designation. In the case supposed, then, the provisional succession will devolve, first, on the Governor of New Ulster; secondly, on the Governor of New Munster; thirdly, on the Lieutenant-Governor of New Ulster, if appointed immediately by the Queen; fourthly, on the Lieutenant-Governor of New Munster, if appointed immediately by the Queen; and, fifthly, on the senior officer for the time being in command of the Queen's troops in New Zealand. On the death, or absence, or other vacancy of the office of the Governor of either province, his office will be filled by the Lieutenant-Governor of it. On the death, or absence, or other vacancy of the office of Lieutenant-Governor of either province, the vacancy will be filled provisionally by an officer to be appointed by the Governor-in-Chief. I have already observed that Lieutenant-Governors so appointed will not stand in the line of provisional succession to the General Government.

Provision being thus made for establishing the municipal, the legislative, and executive institutions of New Zealand, there is a virtual accomplishment of all that is necessary for its future government. From these institutions will flow all subordinate powers, judicial, fiscal, magisterial, or of whatever other nature they may be. The respective Legislatures will progressively mould these derivative organs of government into such forms as the exigencies of society will require. To a great extent it will be competent to those Legislatures so to mould even the institutions which the Charter itself creates, by regulating the elective franchise and the whole system of elections, municipal and legislative; care being taken that no such enactments be either repugnant to the text, or at variance with the spirit, of the Act or of the Charter. To prescribe fundamental rules, and to create an authority for the better adaptation of them to the real wants of the colony, is the only function which the Queen or Parliament have assumed to themselves, or could properly have assumed.

At first sight it may appear that something more than this has been aimed at in the accompanying Royal Instructions. They are unavoidably copious and minute; but they will be found rather to impart powers than to lay down inflexible rules; and so wide is the field over which the subject ranges that even to accomplish this design has unavoidably led into many elaborate and protracted details.

To render those details as clear and as useful as may be, they are drawn up not in the usual form, but in a series of chapters, each of which is subdivided into sections, the whole being introduced by one comprehensive reference to the powers under which the Instructions are issued, and by one equally comprehensive declaration of the Royal pleasure that they shall be observed. Much tautology and useless repetition is thus avoided.

Believing that the Instructions, as thus prepared, will be found to convey their meaning perspicuously and completely, I abstain from any attempt to recapitulate or to explain their provisions. I turn to other topics on which it seems indispensable that on the present occasion I should convey to you explanations for which, of course, no appropriate place could be found in the legal instruments already mentioned. I advert especially to what relates to the aborigines of New Zealand, and the settlement of the public lands in those Islands.

I cannot approach this topic without remarking that the protracted correspondence to which it has given rise, the public debates and resolutions which have sprung from it, and the enactments and measures of your predecessors in the Government, have all contributed to throw into almost inextricable confusion the respective rights and claims of various classes and individuals amongst the inhabitants of New Zealand, to render very embarrassing the inquiry in which you must doubtless be engaged respecting the line of conduct which Her Majesty's Government expect you to pursue, and, at the same time, to make it almost impossible for us to determine, with any confidence, what that conduct

ought to be, and how far, in a state of affairs so complicated, it is possible now to act upon the principles to which, in the absence of these difficulties, I should have prescribed your adherence. I will not attempt any retrospect of those documents and proceedings; I should but be adding to the perplexity which I acknowledge and regret. It shall be my attempt rather to explain, as briefly as the nature of the subject admits, what is the policy which, if we were unembarrassed by past transactions, it would be right to follow, and which, so far as any freedom of choice remains to us, ought still to be adopted, regarding the right of property in land which should be acknowledged or created, more especially as affecting the aborigines of New Zealand.

I enter on this topic by observing that the accompanying statute, 9th and 10th Victoria, c. 104, s. 11, repeals the Australian Land Sales Act as far as relates to lands situate in New Zealand. Thus there is a complete absence of any statutory regulations on this subject. The Queen, as entitled in right of her Crown to any waste lands in the colony, is free to make whatever rules Her Majesty may see fit on the subject. The accompanying Charter accordingly authorizes the Governor to alienate such lands. The accompanying Instructions direct how that power is to be used. I proceed to explain the motives by which those Instructions have been dictated.

The opinion assumed, rather than advocated, by a large class of writers on this and kindred subjects is that the aboriginal inhabitants of any country are the proprietors of every part of its soil of which they have been accustomed to make any use, or to which they have been accustomed to assert any title. This claim is represented as sacred, however ignorant Natives may be of the arts or of the habits of civilized life, however small the number of their tribes, however unsettled their abodes, and however imperfect or occasional the uses they make of the land. Whether they are nomadic tribes depasturing cattle, or hunters living by the chase, or fishermen frequenting the sea-coasts or the banks of rivers, the proprietary title in question is alike ascribed to them all. From this doctrine, whether it be maintained on the grounds of religion, or of morality, or of expediency, I entirely dissent. What I hold to be the true principle with regard to property in land is that which I find laid down in the following passage from the works of Dr. Arnold, which I think may safely be accepted as of authority upon this subject, not only on account of his high character, but also because it was written not with reference to passing events, or to any controversy which was at that time going on, but as stating a principle which he conceived to be of general application: "Men were to subdue the earth, that is, to make it by their labour what it would not have been by itself; and with the labour so bestowed upon it came the right of property in it. Thus every land which is inhabited at all belongs to somebody, that is, there is either some one person, or family, or tribe, or nation, who have a greater right to it than any one else has: it does not, and cannot, belong to everybody. But so much does the right of property go along with labour, that civilized nations have never scrupled to take possession of countries inhabited only by tribes of savages—countries which have been hunted over, but never subdued or cultivated. It is true they have often gone further and settled themselves in countries which were cultivated, and then it becomes a robbery; but when our fathers went to America and took possession of the mere hunting-grounds of the Indians—of lands on which man had hitherto bestowed no labour—they only exercised a right which God has inseparably united with industry and knowledge."

The justice of this reasoning must, I think, be generally admitted, and, if so, it can hardly be denied that it is applicable to the case of New Zealand, and is fatal to the right which has been claimed for the aboriginal inhabitants of those Islands to the exclusive possession of the vast extent of fertile but unoccupied lands which they contain. It is true the New Zealanders, when European settlement commenced among them, were not a people of hunters; they lived, in a great measure at least, upon the produce of the soil (chiefly, perhaps, its spontaneous produce), and practised, to a certain extent, a rude sort of agriculture. But the extent of land so occupied by them was absolutely insignificant when compared with that of the country they inhabited; the most trustworthy accounts agree in representing the cultivated grounds as forming far less than one-hundredth part of the available land, and in stating that millions of acres were to be found where the naturally-fertile soil was covered by primæval forests, or wastes of fern, in the midst of which a few patches, planted with potatoes, were the only signs of human habitation and industry. The Islands of New Zealand are not much less extensive than the British Isles, and capable probably of supporting as large a population, while that which they actually supported has been variously estimated, but never I believe so high as 200,000 souls. To contend that, under such circumstances, civilized men had not a right to step in and to take possession of the vacant territory, but were bound to respect the supposed proprietary title of the savage tribes who dwelt in, but were utterly unable to occupy, the land, is to mistake the grounds upon which the right of property in land is founded. To that portion of the soil, whatever it may be, which they really occupied, the aboriginal inhabitants, barbarous as they were, had a clear and undoubted claim; to have attempted to deprive them of their patches of potato-ground, even so to have occupied the territory as not to leave them ample space for shifting, as was their habit, their cultivation from one spot to another, would have been in the highest degree unjust; but, so long as this injustice was avoided, I must regard it as a vain and unfounded scruple which would have acknowledged their right of property in land which remained unsubdued to the uses of man. But, if the savage inhabitants of New Zealand had themselves no right of property in land which they did not occupy, it is obvious that they could not convey to others what they did not themselves possess, and that claims to vast tracts of waste land, founded on pretended sales from them, are altogether untenable. From the moment that British dominion was proclaimed in New Zealand, all lands, not actually occupied in the sense in which alone occupation can give a right of possession, ought to have been considered as the property of the Crown, in its capacity of trustee for the whole community; and it should thenceforward have been regarded as the right, and at the same time the duty, of those duly authorized by the Crown to determine in what manner, and according to what rules, the land hitherto waste should be assigned and appropriated to particular individuals. There is another consideration which leads to the same conclusion. It has never been pretended that the wide extent of unoccupied land, to which an exclusive right of property has been asserted on behalf of the Native inhabitants of New Zealand, belonged to them as individuals; it was only as tribes that they were supposed to possess it; and, granting their title as such to have been

good and valid, it was obviously a right which the tribes enjoyed as independent communities—an attribute of sovereignty which, with the sovereignty, naturally and necessarily was transferred to the British Crown.

Had the New Zealanders been a civilized people, this would have been the case. If these Islands, being inhabited by a civilized people, had been added, either by conquest or by voluntary cession, to the dominions of the Queen, it is clear that, according to the well-known principles of public law, while the property of individuals would have been respected, all public property, all rights of every description, which had appertained to the previous Sovereigns, would have devolved, as a matter of course, to the new Sovereign who succeeded them. It can hardly be contended that these tribes, as such, possessed rights which civilized communities could not have claimed.

Such are the principles upon which, if the colonization of New Zealand were only now about to begin, it would be my duty to instruct you to act; and though I am well aware that in point of fact you are not in a position to do so, and that, from past transactions, a state of things has arisen in which a strict application of these principles is impracticable, I have thought it right that they should be thus explicitly stated in this despatch (as they are in the Royal Instructions to which it refers), in order that you may clearly understand that, although in many respects you may be compelled to depart from them, still you are to look to them as the foundation of the policy which, so far as it is in your power, you are to pursue.

The imperfect information which alone at this distance I can hope to obtain as to the actual state of affairs in New Zealand renders it impossible for me to venture to prescribe to you how far you are to go in attempting practically to act upon the principles I have laid down. I should infer from your own despatches, as well as from those of your predecessors, that the right of the Crown could not now be asserted to large tracts of waste land which particular tribes have been taught to regard as their own. It appears that you have found it expedient to admit these pretensions to a considerable extent; and, having done so, no apparent advantage could be suffered to weigh against the evil of acting in a manner either really or even apparently inconsistent with good faith. While, however, you scrupulously fulfil whatever engagements you have contracted, and maintain those rights on the part of the Native tribes to land which you have already recognized, you will avoid, as much as possible, any further surrender of the property of the Crown. I trust also that the evil which would otherwise arise from the concessions already made may, to a great degree, be neutralized by your strictly maintaining the exclusive right of the Crown to purchase land from the Native tribes to which it has been assumed that it belongs. This right, resting as it does not only upon what has been called the Treaty of Waitangi, but also upon the general and long-recognized principles of national law, is one so important that it ought almost at all hazards to be strictly enforced. To suffer it to be set aside would be to acquiesce in the ruin of the colony, since it would be fatal to the progressive and systematic settlement of the country. It is by the sale of land at more than a nominal price that its appropriation to individuals in allotments proportioned to their power of making use of it can alone be secured. It is the mode by which, with least inconvenience and difficulty, funds can be raised for emigration and for executing those public works which are necessary for the profitable occupation of the soil: in short, it is the very foundation upon which systematic colonization must be based. But if the Native tribes are permitted to sell large tracts of land to individuals for a mere nominal consideration, it is obvious that so much land will be thrown upon the market as entirely to defeat the attempt to sell such lands as the Crown may still retain at a price sufficient to answer the objects of the policy I have described. It has been asserted that the Natives of New Zealand will never consent, unless compelled by force of arms, to the adoption of a system by which land bought from them at a nominal, or at all events at a low price, by the servants of the Crown, is to be resold at a much higher rate to actual settlers. I fear that it may be more difficult than it would have been formerly to reconcile them to this practice: nevertheless the attempt must be made; and I still hope it may not be impossible to convince them that the Crown receives the money so paid for land only as trustee for the public, and that it is applied for their benefit as forming part of the community; that the price obtained for land which is sold to settlers affords the means of constructing roads and bridges, of building churches and schools, and of introducing an additional European population; thus really conducing far more to their advantage than the paltry supply of goods which, if they sold the land for themselves, they would obtain for it.

These remarks apply to lands held by the aboriginal inhabitants as tribes, and by a title not resting upon actual occupation and improvement. As individuals they should be as free as any of the other inhabitants of New Zealand to acquire and to dispose of property in land.

The first and most important step which you will have to take with the view of introducing a regular system with respect to the disposal of land will be to ascertain distinctly the ownership of all the land in the colony. The extent and limits of all which is to be considered as the property either of individuals, of bodies politic or corporate, or of the Native tribes, must in the first instance be determined, and the whole of the remainder of the territory will then be declared to be the Royal demesne. The results of this inquiry must be carefully registered, and a regular record henceforth preserved, showing to whom all the lands of New Zealand belong. This measure has been repeatedly and earnestly inculcated on your predecessors, and I cannot too strongly repeat the same injunction. It has been with the single object of insuring in the management of the waste lands of New Zealand the adoption of a system calculated, as the confidential servants of Her Majesty believe, to promote the true interest of all her subjects, that the Instructions which accompany this despatch have been framed. I do not pause to recapitulate their details; but the principles of them are, that the power of the Crown over these lands should never be employed for any purpose of patronage, influence, or favoritism; that the Crown shall not be at liberty to make a gratuitous alienation of any extent of land, however small, except with a view to public works in which the whole society may have a more or less immediate interest; that the alienation of such lands to any private persons, or for any private purposes, shall always be preceded by a careful survey of the land, and followed by an immediate registration of the grant; that no such alienation shall be made without a previous public auction; that at all such auctions all lands shall be offered for sale at a certain upset price; that the selection of the lands so to be put up to auction shall be made exclusively by the Government; that the upset

price of each lot shall depend on the class in which it is placed, the three classes being town allotments, suburban allotments, and rural allotments, the last class being again subdivided into lands which are, and into lands which are not, believed to contain valuable minerals; that lands once offered for sale by auction, without finding a purchaser, may afterwards be purchased, without auction, at the upset price; that the first application of the land revenue must be towards defraying the expenses incident to the administration of the Crown Land Department in all its branches; and that the surplus, or net land revenue, should be applied towards the introduction of manual labourers from this country, unless when the exigencies of the public service may render the application of it to other local purposes indispensable.

Such being my general views regarding the settlement of the public lands in New Zealand, I return to the kindred topic of the state of the aborigines there. On the general principles by which our relations to them should be governed I have nothing to add to Lord John Russell's instructions to Captain Hobson, of the 9th December, 1840, No. 1. But I have to call your attention to the 10th clause of the 9th and 10th Victoria, c. 103, in which Parliament has adopted and given its sanction to the principles laid down by his Lordship in that despatch, that the laws and customs of the native New Zealanders, even though repugnant to our own laws, ought, if not at variance with general principles of humanity, to be for the present maintained for their government in all their relations to, and dealings with, each other; and that particular districts should be set apart within which such customs should be so observed.

It will be your own duty to give effect to the general principle which would separate, by well-defined lines of demarcation, those parts of New Zealand in which the Native customs are to be maintained from those in which they are to be superseded. For the sake of distinctness, the one may be called the aboriginal and the other the provincial districts. The last, or provincial, districts will be entirely divided into the various municipalities already mentioned. With an increasing British population, and with the advance of the Natives in the arts of civilized life, the provincial districts will progressively extend into the aboriginal, until, at length, the distinction shall have entirely disappeared. In the mean time the provincial districts, and they alone, will be the seats of Courts and magistracies, and of other institutions requisite for the government of civilized men. The aboriginal districts will be governed by such methods as are in use among the native New Zealanders. The chiefs or others, according to their usages, should be allowed to interpret and to administer their own laws. Even beyond those precincts the same practice should be followed in all cases, whether criminal or civil, in which the Natives alone have any direct and immediate interest. Difficulties will of course arise in the execution of such rules, but not, I think, any which may not be easily surmounted; for the administration of different laws to different races of men, inhabiting the same country under one common Sovereign, is a practice which has prevailed so extensively that scarcely any civilized nation can be mentioned in which some examples of it have not occurred. With the increase of Christian knowledge, of civilization, of the use of the English tongue, and of mutual confidence between the two races, these distinctions of law and of legal customs will, I trust, become unnecessary and obsolete. In the meantime we must await that consummation with every reasonable indulgence for the innocent habits and for the venial prejudices of aboriginal races with which we have thus been brought into contact.

I pass over in this despatch, as in the accompanying instruments Her Majesty has passed over in silence, many topics of the greatest importance to the future good government of New Zealand. Such are the administration of justice, the management of the revenue, the education of youth, and the provision to be made for public Christian worship. On these and similar questions I think it better to await, than to anticipate, the deliberations of the Legislative bodies about to be convened in New Zealand. They will properly form the subject of a separate and future correspondence.

The Act of Parliament which I now transmit to you, and the instruments which have been issued in pursuance of it, are framed in the spirit of an unreserved confidence both in the capacity and in the willingness of the British settlers in New Zealand to regulate their own internal affairs in such a manner as may best conduce to the welfare of the colony and of the empire of which it forms a part. To men to whom so high a trust has been committed, it is fitting that the Minister of the Crown charged with the communication to them of Her Majesty's gracious intentions should address himself in the language of frankness and of candour. I therefore do not scruple to observe that the experience of our widely-extended empire has ascertained that the otherwise inestimable advantages of colonial self-government are attended with at least one serious danger. It is the danger that the powers conferred by this great franchise on the representatives of the people may be perverted into an instrument for the oppression of the less civilized and less powerful races of men inhabiting the same colony. This abuse has arisen in our colonies, not because the wealthier and better-educated classes of society there are in any respect inferior in character to the corresponding classes of society elsewhere, but because they are exposed to a temptation from which the greater number of imperial and independent Legislatures are exempt. They live in a vicinity to which nothing parallel exists in the ancient States of Europe. Such a vicinity exists, and consequently such a temptation will arise, in New Zealand. I therefore acquit myself of a duty, involving no failure of respect to the future Assemblies of that colony, in thus unreservedly pointing out to you, and through you commending to their attention, the sacred duty which will be incumbent on them of watching over the interests, protecting the persons, and, as far as may be, cultivating the minds, of the aboriginal race among whom they and their constituents have settled. They can render no service more acceptable to the Queen, to Parliament, and to the people of this country at large.

Although Her Majesty has confided to your discretion the time from which the new Charter is to be promulgated and to take effect, and although in the exercise of that discretion you will of course weigh every material circumstance, including many which it would be impossible for me to foresee or to estimate aright, yet you will understand it to be Her Majesty's pleasure that no delay should intervene which those circumstances may not justify and require.

I have, &c.,

GREY.

Enclosure in No. 6.
NEW ZEALAND CHARTER.

Downing Street, 28th December, 1846.

IN pursuance of an Act made and passed in the ninth and tenth years of Her Majesty's reign, intituled "An Act to make further Provision for the Government of the New Zealand Islands," the Queen has been pleased to issue the following Letters Patent (being the New Zealand Charter), under the Great Seal of the United Kingdom, and the Instructions under Her Majesty's Sign-Manual and Signet, accompanying the same.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these presents shall come, greeting.

WHEREAS by an Act made and passed in the Parliament holden in the ninth and tenth years of our reign, intituled "An Act to make further Provision for the Government of the New Zealand Islands," it is among other things enacted that it shall be lawful for us, in and by any Letters Patent to be issued, after the passing of the said Act, under the Great Seal of the United Kingdom, from time to time to constitute and establish within any district or districts of the Islands of New Zealand, one or more Municipal Corporation or Corporations, and to grant to any such Corporations all or any of the powers which (in pursuance of the statutes in that behalf made and provided) it is competent to us to grant to the inhabitants of any town or borough in England and Wales incorporated in virtue of such statutes or any of them, and to qualify and restrict the exercise of any such powers in such and the same manner as by the statutes last aforesaid, or any of them, we may qualify or restrict the exercise of any such powers in England; and it is by the said Act further enacted that it shall be lawful for us, by any such Letters Patent as aforesaid, to make and prescribe all such rules as to us shall seem fit for determining the extent and boundaries of the districts to be comprised within any such Municipal Corporations as aforesaid, and for regulating the choice and election of the various officers of any such Corporations, and of the members of the governing bodies thereof, and for ascertaining the qualifications of the members of any such Municipal Corporations; and it is by the said Act further enacted that it shall be lawful for us to execute any of the powers thereby vested in us, by Instructions under our Signet and Sign-Manual, approved in our Privy Council, and accompanying or referred to in Letters Patent to be issued as aforesaid; and that it shall be lawful for us, by any such Letters Patent or Instructions, to delegate to the Governor-in-Chief for the time being of the Islands of New Zealand, or to the respective Governors for the time being of the respective provinces into which the said Islands may be divided, the exercise of such of the powers by the said Act vested in us as it may seem meet to us so to delegate, and to prescribe the manner and form in which, and the conditions subject to which, such delegated authority shall so be exercised:

Now know ye that, in pursuance of the said recited Act, and in exercise of the powers thereby in us vested, and also in exercise of all and every other the powers to us in that behalf in anywise belonging, we, of our special grace, mere motion, and certain knowledge, have constituted and established, and do hereby constitute and establish within the said Islands of New Zealand such Municipal Corporations, with such powers, qualifications, and restrictions as are mentioned and directed in certain Instructions by us given under our Signet and Sign-Manual, approved in our Privy Council, and bearing even date with and accompanying these presents.

II. And in further pursuance and exercise of the powers aforesaid, we do hereby grant, appoint, and ordain that the districts to be comprised within such Municipal Corporations respectively, shall be of such extent, and shall have such boundaries as are prescribed and provided for in and by the said Instructions, and that the choice and election of the various officers of the said Corporations respectively and of the members of the governing bodies thereof, shall take place and be regulated according to the rules and in the manner and form prescribed and provided for in and by the said Instructions, and that the qualifications of the members of the said Municipal Corporations shall in like manner be ascertained according to the rules and in the manner and form prescribed and provided for in and by the said Instructions.

III. And whereas it is by the said recited Act further enacted that it shall be lawful for us, in and by any Letters Patent to be issued as aforesaid, from time to time to divide the said Islands of New Zealand into two or more separate provinces, and to constitute and establish within the same two or more separate Assemblies, that is to say, one such Assembly in and for each of such separate provinces, and that each of the said Assemblies shall consist of and be holden by a Governor, a Legislative Council, and a House of Representatives: Now, therefore, in further pursuance of the said recited Act, and in exercise of the powers thereby in us vested, we do hereby grant, ordain, and appoint, that the said Islands of New Zealand shall be divided into two separate provinces, to be called respectively the "Province of New Ulster," and the "Province of New Munster;" and we do hereby divide the said Islands accordingly; and we do hereby constitute and establish a separate Assembly within each of the said two provinces, to consist of and be holden by a Governor, Legislative Council, and a House of Representatives; and we do hereby declare, ordain, and appoint, that the limits of the said provinces respectively, and the time at which in each of the said provinces respectively, the said Assemblies shall be convened or holden, shall be determined in the manner and form prescribed and provided for in and by the said Instructions hereinbefore mentioned.

IV. And whereas it is by the said recited Act further enacted that each of the said Legislative Councils, when constituted, shall consist of such persons as we shall for that purpose appoint; and that the elections of the members of the said Houses of Representatives shall take place in such manner and form, and under such regulations, as shall for that purpose be prescribed in any such Letters Patent as aforesaid: Now, therefore, in further pursuance and exercise of the powers aforesaid, we do hereby grant, appoint, and ordain that the said Legislative Councils shall consist of such persons as are for that purpose appointed or designated by us in the said Instructions hereinbefore mentioned, and that the elections of members of the said Houses of Representatives respectively shall take place in the manner and form and under the regulations prescribed and provided for in and by the said instructions hereinbefore mentioned.

V. And whereas it is by the said recited Act further enacted that it shall be lawful for us, in and by any such Letters Patent to be issued as aforesaid, to constitute and establish a General Assembly in and for the said Islands of New Zealand, to be called the General Assembly of New Zealand, which said General Assembly shall consist of and be holden by the Governor-in-Chief of the said Islands, and a Legislative Council, and a House of Representatives; and that such Legislative Council shall consist of such persons as we shall for that purpose appoint; and that such House of Representatives shall consist of members of the respective Houses of Representatives of the several provinces into which the said Islands may be divided, which members so to serve in the said General Assembly shall be elected, nominated, and appointed by such persons, in such manner and form, and upon and subject to such rules and conditions as we by any such Letters Patent as aforesaid shall direct: Now, therefore, in further pursuance of the said recited Act, and in exercise of the powers thereby in us vested, we do hereby constitute and establish a General Assembly in and for the Islands of New Zealand, to be called the General Assembly of New Zealand, and to consist of and be holden by the Governor-in-Chief of the said Islands, a Legislative Council, and a House of Representatives; and we do hereby grant, appoint, and ordain that the Legislative Council of the said General Assembly of New Zealand shall consist of such persons as are for that purpose appointed or designated by us in the said Instructions hereinbefore mentioned; and that the House of Representatives of the said General Assembly shall consist of members of the respective Houses of Representatives of the said provinces, to be for that purpose elected, nominated, and appointed by the persons appointed or designated, and in the manner and form prescribed and provided for in and by the said Instructions hereinbefore mentioned.

VI. And whereas it is by the said recited Act further enacted that it shall be lawful for us, by any such Letters Patent to be issued as first aforesaid, to make and prescribe all such rules as to us shall seem fit for ascertaining the qualifications of the members of any such assemblies or General Assembly as aforesaid, and for determining the length of time for which every such Assembly or General Assembly shall be holden from the time of the election of the members of the said Houses of Representatives, and how and by what authority the same shall be dissolved or prorogued, and for prescribing the oaths to be taken, or the affirmation to be made by the members of the said Corporations, Assemblies, or General Assembly, or any of them, before entering on the discharge of the duties of their respective offices, and for prescribing the course of proceeding to be followed in the said respective assemblies and in the said General Assembly, in regard to the enactment of laws, statutes, and ordinances therein, and for determining in what cases the Governor-in-Chief for the time being of the said Islands of New Zealand, or the Governor for the time being of any separate province, shall in our name and on our behalf assent to any such laws, statutes, or ordinances, or reserve the signification of our pleasure thereon, together with all such rules as shall be necessary for determining the effect of the disallowance by us of any such law, statute, or ordinance, although not so reserved as aforesaid, together with all such other rules, not being repugnant to the said Act, as it may seem to us necessary to make and establish for carrying into full effect the purposes and objects thereof: Now, therefore, in further pursuance of the said Act, and in exercise of the powers so thereby vested in us as aforesaid, we do hereby declare our pleasure to be that upon and in respect to all and each of the matters and things last mentioned and referred to in the said recited Act, such rules shall be observed and followed as are for those several purposes prescribed or referred to in the said instructions hereinbefore mentioned.

VII. And whereas it is by the said Act further enacted that it shall be lawful for us, by any such Letters Patent as first aforesaid, to appropriate and set apart from and out of the revenues of any such separate provinces as aforesaid, by way of Civil List, for the maintenance of the administration of justice and the principal officers of the civil Government or of such separate provinces as aforesaid, such sums of money as shall not exceed six thousand pounds by the year in any one of the said separate Governments: Now, therefore, in pursuance of the said Act, and in exercise of the powers thereby vested in us, we do hereby appropriate and set apart from and out of the revenue of each of the said separate provinces respectively, by way of Civil List, for the purposes last aforesaid, the sum of six thousand pounds in each of the said Governments respectively, which said several sums of six thousand pounds shall, in each of the said Governments respectively, be appropriated and applied and accounted for in the manner and form for that purpose appointed and prescribed in and by the said Instructions hereinbefore mentioned.

VIII. And whereas it is by the said recited Act among other things enacted that it shall be lawful for us, by such Letters Patent as first aforesaid, to prohibit the grant or appropriation of any public money by either of the said Assemblies, or by the said General Assembly, in any case in which such grant or appropriation shall not first have been recommended by us on our behalf, with a view to or in aid of some specific public service to be performed within the said provinces respectively, or within the said Islands of New Zealand collectively: Now, therefore, in further pursuance of the said recited Act, and in exercise of the powers thereby in us vested as aforesaid, we do hereby prohibit the grant or appropriation of any public money by either of the said Assemblies, or by the said General Assembly, in any case in which such grant or appropriation shall not first have been recommended by us or on our behalf, with a view to or in aid of some specific public service to be performed within the said provinces respectively, or within the said Islands of New Zealand collectively.

IX. And whereas by the said Letters Patent of the 16th day of November, in the fourth year of our reign, we did reserve to us, our heirs and successors, full power and authority from time to time to revoke, alter, or amend the same as to us or them shall seem meet. Now, therefore, in exercise and in pursuance of the powers so reserved to us, we do hereby revoke the said last-mentioned Letters Patent: Provided always, that all laws and ordinances made and all acts done under and in pursuance of the said last-mentioned Letters Patent, in so far as such laws, ordinances, and acts are not repugnant to these presents, and do not interfere with or prevent the operation thereof, shall be as valid and effectual as though these presents had not been made.

X. And we do hereby require and enjoin that the said General Assembly of New Zealand, and that the said respective Assemblies of the said respective provinces shall, in pursuance of the said recited Act, make and enact all such laws, statutes, and ordinances as by the said recited Act they are

severally authorised and empowered to make and enact, and that the course of proceeding to be followed in the said General Assembly, and in the said Assemblies in the said respective provinces in regard to the making and enactment of such laws, statutes, and ordinances, shall be according to such rules as are in that behalf prescribed and provided for in the said Instructions hereinbefore mentioned.

XI. And we do further authorise and require the Governor of each of the said provinces to summon, as an Executive Council for each of the said provinces respectively, such and so many persons as are for that purpose appointed or designated by us in the said Instructions hereinbefore mentioned, or as shall at any time hereafter be by us appointed or designated in any other Instructions under our Signet and Sign-Manual addressed to him in that behalf.

XII. And we do hereby authorise, empower, and require the Governor-in-Chief of New Zealand, and the respective Governors of each of the said provinces respectively, to keep and use a public seal for the sealing of all things whatsoever that shall pass the seal of the said General Government, or the seal of either of the said provinces respectively.

XIII. And we do hereby grant to the respective Governors of the said provinces respectively full power and authority, with the advice and consent of the Executive Council of the said respective provinces, from time to time to issue a Proclamation or Proclamations, dividing the same into counties, hundreds, towns, townships, and parishes, and to appoint the limits thereof respectively.

XIV. And we do hereby give and grant to the respective Governors of the said provinces respectively, full power and authority to make and execute, in our name and on our behalf, under the public seal of the said respective provinces, grants of waste land to us belonging within the same, either to private persons for their own use and benefit, or to any persons, bodies politic or corporate, in trust for the public uses of our subjects there resident, or any of them.

XV. Provided always that, in the exercise of the powers last aforesaid, the respective Governors of the said provinces respectively shall strictly conform to and observe the rules for their guidance prescribed in and by the said Instructions hereinbefore mentioned.

XVI. And we do hereby authorise, empower, and require the respective Governors of the said provinces respectively, from time to time, in our name and on our behalf, to constitute and appoint Judges, and, in cases requisite, Commissioners of Oyer and Terminer, Justices of Peace, and other necessary officers for the administration of justice within the said respective provinces, and for the putting in force therein all laws made or to be made for the government thereof, and all such officers as may be requisite for the due administration of the civil Government therein: And we do further authorise the same Governors, as occasion shall require, to suspend from the exercise of his office or employment, until our pleasure shall be known, any person or persons within their respective provinces holding any public office or employment therein at our pleasure.

XVII. Provided always that, in the exercise of such power of appointment and suspension of public officers, the same Governors shall observe the rules in that behalf prescribed for their guidance in and by the said Instructions hereinbefore mentioned.

XVIII. And we do hereby authorise, empower, and require the respective Governors of the said provinces respectively to administer, or to cause to be administered, to all our officers, civil and military, and to all other persons within the said provinces respectively, such oaths for the due execution of their respective offices and employments as are usually taken by such officers, and the oath of allegiance.

XIX. And we do hereby give and grant unto the respective Governors of the said provinces respectively full power and authority, in our name and on our behalf, to grant to any offender, convicted of any crime, or sentenced to the payment to us of any fine, penalty, or forfeiture, by any Court, or by or before any Judge, Justice, or Magistrate within the said provinces respectively, a free and unconditional pardon, or a pardon subject to such conditions as by any law then in force may be thereunto annexed, or any respite of the execution of the sentence of any such offender for such period as to such Governor may seem meet, or a remission, either total or partial, absolute or conditional, of any such fine, penalty, or forfeiture.

XX. And in the event of the death of the Governor-in-Chief of New Zealand for the time being, or of his absence from the New Zealand Islands, or of his bodily or mental incapacity for the discharge of the duties of his office, any person being within the said Islands, and holding a commission from us to be Governor of the Province of New Ulster, shall, upon the occurrence of such death, absence, or incapacity, enter upon, and during such vacancy by death, or during the continuance of such absence or incapacity, or until our pleasure be known, discharge all the powers, authorities, privileges, and duties of such Governor-in-Chief as fully as if a commission for the exercise of that office during that period had by us been addressed to him. But if there should not happen to be within the said Islands, on the occurrence of any such vacancy by death, or during the continuance of any such absence or incapacity, any person holding our commission as Governor of the Province of New Ulster, then upon the occurrence and during the continuance of such vacancy by death, or during the continuance of such absence or incapacity, or until our pleasure be known, the exercise of the said office of Governor-in-Chief shall be assumed by any person being within the said Islands, and holding a commission from us to be Governor of the Province of New Munster; and failing any such Governor of New Munster, then and in such case by the chief officer in command of our military forces within the said Islands for the time being.

XXI. And we do further declare our pleasure to be that Lieutenant-Governors of the said respective provinces shall by us from time to time be appointed by commissions under our Signet and Sign-Manual; but that in the event of death, absence, resignation, bodily or mental incapacity, or suspension from office by the said Governor-in-Chief of any such Lieutenant-Governor, it shall be competent to the said Governor-in-Chief, and he is hereby authorised and empowered, upon the occurrence and during the continuance of such last-mentioned vacancy, by a commission under the public seal of the General Government of New Zealand in our name and on our behalf, to constitute and appoint any proper person to be Lieutenant-Governor of such province until our pleasure be known.

XXII. And we do hereby declare our pleasure to be that the Lieutenant-Governor for the time being of each of the said provinces (whether so appointed by such a direct commission from us as aforesaid, or by such a commission as aforesaid from the Governor-in-Chief of New Zealand, shall have, exercise, and enjoy all powers, privileges, and authorities hereby or by the said Instructions hereinbefore mentioned, or otherwise howsoever vested in the Governor for the time being of any such province, save only that the temporary and provisional administration of the office of Governor-in-Chief of New Zealand), on any such vacancy by death, absence, or incapacity as aforesaid, shall pass to and become vested in the Governor of the Province of New Munster, in preference to the Lieutenant-Governor of the Province of New Ulster, and in the Lieutenant-Governor of the Province of New Ulster in preference to the Lieutenant-Governor of the Province of New Munster; and such provisional administration of the said office of Governor-in-Chief of New Zealand shall, on any such vacancy by death, absence, or incapacity as aforesaid, pass to and become vested in such chief military officer as aforesaid, in preference to any Lieutenant-Governor who may hold the office of Lieutenant-Governor, not in virtue of a commission issued directly by us, but in virtue of a commission so issued as aforesaid in our name and behalf by any such Governor-in-Chief.

XXIII. And we do further reserve to ourselves full power and authority in our discretion to appoint one and the same person to occupy at the same time the said several offices of Governor-in-Chief and of Governor of each of the said respective provinces, or any two of those offices, and in our discretion to appoint one and the same person to occupy at the same time both of the said offices of Lieutenant-Governor of the said respective provinces.

XXIV. And whereas it is by the said recited Act further provided, that it shall be lawful for us from time to time to amend, and for that purpose to add to, or if necessary to repeal, any such Letters Patent or Instructions as therein mentioned: Now, we do hereby reserve to ourselves, our heirs and successors, full power and authority from time to time to amend, and for that purpose to add to, or if necessary to repeal these presents, and the said Instructions hereinbefore mentioned.

XXV. And we do hereby further declare our will and pleasure to be, that these presents shall not take effect or come into operation in the said Islands of New Zealand until the same shall have been published and made known to the inhabitants of the said Islands by a Proclamation to be for that purpose issued by the person commissioned by us to be Governor-in-Chief for the time being of the said Islands.

In witness whereof we have caused these our letters to be made patent.

Witness ourself, at Westminster, the twenty-third day of December, in the tenth year of our reign.

By Writ of Privy Seal,

EDMUNDS.

THE QUEEN'S INSTRUCTIONS UNDER THE ROYAL SIGN-MANUAL AND SIGNET, ACCOMPANYING THE NEW ZEALAND CHARTER.

WHEREAS by an Act made and enacted in the Parliament holden in the ninth and tenth years of our reign, intituled "An Act to make further Provision for the Government of the New Zealand Islands," it is amongst other things enacted that it shall be lawful for us, in and by any Letters Patent thereafter to be issued under the Great Seal of the United Kingdom of Great Britain and Ireland, from time to time to constitute and establish within any district or districts of the Islands of New Zealand, one or more Municipal Corporation or Corporations, and to grant to any such Corporations all or any of the powers in the said recited Act mentioned: And it is thereby further enacted that it shall be lawful for us, in and by any Letters Patent thereafter to be issued under the Great Seal of the United Kingdom aforesaid, from time to time to divide the said Islands into two or more separate provinces, and to constitute and establish within the same two or more separate Assemblies: And it is thereby further enacted that it shall be lawful for us, in and by any such Letters Patent as aforesaid, to constitute and establish Assemblies in and for the respective provinces of New Zealand, and a General Assembly in and for the Islands of New Zealand: And it is thereby further enacted that it shall be lawful for us, by any such Letters Patent as aforesaid, to make provision for the maintenance of certain of the laws, customs, and usages of the aboriginal inhabitants of New Zealand, within particular districts of the said Islands: And it is thereby further enacted that it shall be lawful for us, by any such Letters Patent as aforesaid, to make and prescribe all such rules as to us shall seem fit for determining the extent and boundaries of the districts to be comprised within any such Municipal Corporations as aforesaid, and for regulating the choice and election of the various officers of any such Corporations, and of the members of the governing bodies thereof, and for ascertaining the qualifications of the members of any such Municipal Corporations, or Assemblies, or General Assembly, as aforesaid; and for determining the length of time for which every such Assembly or General Assembly shall be holden from the time of the election of the members of the Houses of Representatives in the said Act mentioned, and how and by what authority the same shall be dissolved or prorogued; and for prescribing the oaths to be taken, or the affirmations to be made by the members of the said Corporations, Assemblies, or General Assembly, or any of them, before entering on the discharge of the duties of their respective offices; and for prescribing the course of proceeding to be followed in the said respective Assemblies, and in the said General Assembly, in regard to the enactment of laws, statutes, and ordinances therein; and for determining in what cases the Governor-in-Chief for the time being of the Islands of New Zealand, or the Governor for the time being of any other such separate provinces as aforesaid, shall, in the name and on the behalf of us, assent to any such laws, statutes, or ordinances, or reserve the signification of our pleasure thereon, together with all such rules as shall be necessary for determining the effect of the disallowance by us of any such law, statute, or ordinance, although not so reserved as aforesaid, together with all such other rules, not being repugnant to the said recited Act, as it may seem to us necessary to make and establish, for carrying into full effect the purposes and objects thereof; and whereas it is by the said recited Act further provided that it shall be lawful for us to execute any of the powers thereby vested in us, not by means of such Letters Patent as aforesaid, but by Instructions under our Signet and Sign-Manual, approved in our Privy Council,

and accompanying or referred to in such Letters Patent; and that it shall be lawful for us, by any such Letters Patent or Instructions, to delegate to the Governor-in-Chief of New Zealand, or to the respective Governors of the said respective provinces, the exercise of such of the powers aforesaid as it may seem meet to us so to delegate, and to prescribe the manner and form in which, and the conditions subject to which, such delegated authority shall so be exercised:

And whereas in pursuance of the said Act of Parliament we have, by certain Letters Patent, under the Great Seal of the United Kingdom aforesaid, bearing date on the twenty-third day of December, 1846, and in the tenth year of our reign, executed certain of the powers in us by the said Act vested, and have in the said Letters Patent referred to these our Instructions under our Signet and Sign-Manual, approved in our Privy Council, and accompanying the said Letters Patent:

Now, therefore, in further pursuance of the said Act, and in exercise of the powers thereby in us vested, and in exercise of all and every other the powers in us in that behalf vested, we have by to the Governor-in-Chief of New Zealand the exercise of certain other of the powers by the said Act vested in us; and we do hereby prescribe that such delegated authority shall so be exercised by these our Instructions thought fit to execute, and do hereby in manner hereinafter mentioned execute certain other of the powers by the said Act vested in us, and we have in further pursuance of the said Act thought fit to delegate, and do hereby in manner hereinafter mentioned, delegate such Governor-in-Chief, in the manner and form following, that is to say, by the publication by him, in pursuance of these our Instructions, of Proclamations to be by him issued in our name and on our behalf, in respect of all and every the matters and things, powers and authorities, comprised in any such delegation; and we do hereby declare that such delegated authority shall so be exercised, subject to the conditions following, that is to say, that every such Proclamation shall take effect within the said Islands of New Zealand upon and from such day as shall for that purpose be limited and appointed, by a provision to be for that purpose made in the body of every such Proclamation, and not before; and that a transcript of every such Proclamation shall by such Governor-in-Chief be transmitted to us as soon as may be practicable, through one of our principal Secretaries of State, for our confirmation or disallowance; and that in case that any such Proclamation or any part thereof shall so be disallowed by us, the same, or the particular part or parts thereof which may so be disallowed, shall cease to be of any force or authority within the said Islands upon and from the time of the receipt thereof by the Governor-in-Chief thereof of any such order of disallowance:

And whereas, with a view to the more methodical and perspicuous statement of the provisions we have so thought it fit to make for the better government of our said Islands, we have reduced the same into successive chapters, and have divided each of such chapters into a series of successive sections:

And whereas, with a view to the more distinct enunciation of the true sense and meaning of the said provisions, we have deemed it convenient to avoid the repetition, at the commencement of each successive section or chapter, of any specific reference to the authority in virtue of which the same is by us so promulgated and established:

Now, therefore, we do hereby declare that each and every of the provisions, orders, matters, and things comprised in the fourteen following chapters hereunto subjoined are by us made, ordained, appointed, and done in pursuance of the said recited Act of Parliament, and in exercise of the powers thereby in us vested, and in exercise of all other powers and authorities to us in that behalf appertaining, and that each and every matter and thing which the Governor-in-Chief of New Zealand, or any Governor or Lieutenant-Governor of any province of New Zealand, is thereby directed or authorised to do, is so committed to him, and shall so be done by him, in pursuance and exercise of the authority which, in execution of the powers aforesaid, we have hereby so delegated to him as aforesaid, and that each and every order, provision, clause, matter, and thing in the said several chapters comprised, shall be taken and understood, executed and enforced in such and the same manner as if each and every of them had been expressly preceded by and immediately connected with a reference to the authority in virtue of which the same are so by us made, ordained, appointed, and done.

CHAPTER I.

On the Executive Government of the New Zealand Islands, and of the respective Provinces thereof.

1. The Islands of New Zealand collectively shall be placed under the government and civil administration of an officer, to be designated the "Governor-in-Chief of New Zealand."

2. The Governor-in-Chief shall in his own person conduct, in all necessary details, the administration of the government of the province within which at the time he may happen to be.

3. The administration of the government of the province from which at the time the Governor-in-Chief may be absent shall be conducted by a Governor, or, in the absence of any such Governor, by a Lieutenant-Governor.

4. In the administration of his office the Governor-in-Chief will correspond with and receive all necessary instructions for his guidance from us through one of our principal Secretaries of State.

5. In the administration of the duties of his office, the Governor or Lieutenant-Governor as the case may be, will correspond with and receive his instructions from the Governor-in-Chief of New Zealand.

6. The Governor-in-Chief will, in manner aforesaid, prescribe all such rules as it may to him appear conducive to the the good government of New Zealand so to prescribe for the conduct of the correspondence between himself and the Governor or Lieutenant-Governor, and for deciding in what cases and to what extent it shall be the duty of the Governor or Lieutenant-Governor to await his instructions before carrying into effect the powers by law vested in him.

7. The Governor-in-Chief of New Zealand shall, in his discretion, from time to time, resort in person to either of the said provinces, and there continue so long as to him shall seem meet for carrying on in person the administration of the Government thereof.

8. It shall be the duty of the Governor or Lieutenant-Governor of either of the said provinces (in obedience to any instructions to him for that purpose addressed by the Governor-in-Chief of New Zealand) to resort in person to either of the provinces aforesaid (to the Government or Lieutenant-Government of which he may have been commissioned by us), there to assume the administration of the Government thereof during the absence of the Governor-in-Chief in the other province.

9. Neither the Colonial Secretary of either of the said provinces, nor any other of the public officers thereof, shall change the place of their official residence in attendance on the Governor-in-Chief, or Governor, or the Lieutenant-Governor, when so passing as aforesaid from one of the said provinces to the other, all such subordinate officers being considered as attached to the respective provinces for and in which they may be respectively appointed to act.

CHAPTER II.

On the Executive Councils of the respective Governments in New Zealand.

1. In each of the provinces of New Zealand an Executive Council shall be established for aiding with their advice the Officer Administering the Government thereof.

2. The said Executive Council shall, in each province, consist of the Colonial Secretary, the Attorney-General, the Colonial Treasurer, and the principal officer in command of our military forces within the province, being a field officer, and, if necessary, of such other persons as are after mentioned.

3. In the event of the absence from any such province of any of the officers aforesaid, the place in the Executive Council of the officer or officers so absent shall be occupied by the person or persons provisionally charged with the duties of any such office or offices.

4. It shall be the duty of the said Executive Councils to advise the Governors or Lieutenant-Governors of the respective provinces for which they may be respectively appointed on all questions which may by any such Governors or Lieutenant-Governors be referred to them relating to their administration and discharge of the duties of such their offices.

5. It shall be competent to any member of any such Executive Council to propose for discussion there any question connected with the administration of the Executive Government thereof, and to record on the minutes of such Council his opinion and advice on any such question.

6. It shall be competent to the Governor-in-Chief of New Zealand, if he shall see fit, but not otherwise, to summon to the Executive Council of either of the said provinces any number of persons not holding any public offices therein, provided that such number of unofficial members shall not on the whole exceed the number of the official members thereof.

7. Every person so summoned to either of the said Councils shall in virtue of such summons be a member thereof, subject nevertheless to our confirmation or disallowance of any such appointment, on the same being reported to us by the Governor-in-Chief of New Zealand.

8. The said Governor-in-Chief shall prescribe all such rules as it may to him appear necessary to establish for the holding of meetings of the said Councils, for giving notice of such meetings, for the due and orderly conduct of the deliberation and proceedings thereof, for taking the votes of the said Councillors, for determining under the presidency of whom any such meetings shall be held during the absence of the Governor or Lieutenant-Governor from the same, for recording the various Acts and decisions of the said Councils, for the adjournment or prorogation of the same, and otherwise for promoting the effective dispatch of business thereat.

9. The Governor-in-Chief shall, half-yearly, transmit to us, through one of our principal Secretaries of State, a copy of the Journals of each of the said Councils for the last preceding half year.

10. In the execution of the powers by us vested in the said Governors or Lieutenant-Governors of the said respective provinces it shall not be obligatory on them to consult with the said Executive Councils in any case in which they shall deem it inexpedient so to do; neither shall it be obligatory on them to adopt the advice of the Executive Councils in any such case if they shall deem it inexpedient to adopt the same. But the Governor-in-Chief shall make a special report and explanation to us of the motives which may have induced any such Governor or Lieutenant-Governor to decline either to adopt any such advice, or to consult with the said Council on any question of importance.

CHAPTER III.

On the Appointment and Removal of Public Officers.

1. Neither the Governor-in-Chief, nor the Governor, nor the Lieutenant-Governor of any such province as aforesaid shall create, or assent to any law for the creation of any new office without our consent first had for the same, save only in cases where the creation of such new offices, without the delay of such a reference, may be evidently indispensable to the due dispatch of the public business of the said provinces, or either of them.

2. The Governor-in-Chief shall provisionally fill up every public office in our service which may become vacant in New Zealand by the death, absence, resignation, suspension, or physical or mental incapacity of the holder of it.

3. No such provisional appointment shall be final and conclusive unless the same shall be confirmed, nor until the same shall be confirmed by us.

4. On reporting every such nomination the Governor-in-Chief shall also report what is the nature of the duties and what the amount of the emoluments of every such office.

5. The Governor-in-Chief may suspend from the execution of his office, until our pleasure shall be known, any officer in New Zealand holding such his office during our pleasure.

6. The before-mentioned power of suspension shall not in any case be exercised by the Governor-in-Chief until he shall first have received and considered the report and advice thereon of the Executive Council of the province to which such officer may belong.

7. No public officer may be so suspended from office until a statement in writing of the grounds of such intended proceeding shall first have been communicated to him, nor until an opportunity shall have been offered to him of being heard in his own defence in person, before the Executive Council of the province to which he belongs.

8. Every suspension of every public officer shall, by the Governor-in-Chief, be reported to us through one of our principal Secretaries of State, for our confirmation or disallowance, and no such public officer shall be considered as being finally dismissed from such his office until such suspension shall so have been confirmed.

CHAPTER IV.

On the Division of New Zealand into Provinces.

1. For the present, and until further order be made in that behalf, the Islands of New Zealand shall be divided into two provinces, to be known respectively by the designations of the "Province of New Ulster" and the "Province of New Munster."

2. The Province of New Ulster shall comprise the whole of the Island hitherto called the Island of New Ulster, with the exception of those parts of the said Island adjacent to Cook's Strait, which the Governor-in-Chief of New Zealand may, by any such Proclamation as aforesaid, except and exclude from the Province of New Ulster. The parts of the Island of New Ulster which may be so excepted and excluded, with all the remaining parts of the New Zealand Islands, shall constitute the Province of New Munster. The dependencies of New Zealand shall respectively constitute a part of, and be considered as attached and belonging to, the respective provinces to which they are severally most contiguous.

3. In determining the metes and bounds of the several boroughs after mentioned, the Governor-in-Chief shall take care that the limits of the whole of each such borough shall fall exclusively within the same province, and shall never extend to more provinces than one.

4. The Governor-in-Chief shall, in manner aforesaid, determine which town within each of the said provinces shall be the capital town thereof, that is to say, the ordinary seat of the Legislature and of the Superior Courts of civil and criminal justice of the province.

CHAPTER V.

[On Municipal Corporations.]

1. Such parts of the Islands of New Zealand as are or as shall be owned or lawfully occupied by persons of European birth or origin shall be divided into municipal districts, each of which districts shall be called a borough.

2. The Governor-in-Chief shall by Proclamations define the metes and bounds of every such borough, and shall assign to each an approximate designation.

3. If by any such Proclamation any such metes and bounds should be described erroneously, indistinctly, or imperfectly, or if in any other respect the Proclamation should fail to express with the requisite clearness the meaning with which it was promulgated, any such error may be corrected by a subsequent Proclamation to be issued by the Governor-in-Chief for that purpose.

4. But if it should be thought fit to alter the metes and bounds originally contemplated by the Governor-in-Chief in any such Proclamation, or otherwise to change the design with which any such Proclamation was originally issued, that change may not be effected by a subsequent Proclamation, but only by an ordinance to be enacted for that purpose by the Legislature of the province within which the borough may be situate.

5. In every such municipality or borough there shall be a town to be indicated as the capital thereof by the Proclamation establishing or defining the borough.

6. In determining the number and the extent of the said boroughs, and in defining the metes and bounds thereof, the Governor-in-Chief shall be guided by a consideration—first, of the populousness and wealth of the different municipal districts into which such parts as aforesaid of the said Islands may be divisible; secondly, by a consideration of the general community of local interests which may subsist between the inhabitants of particular districts; and thirdly, by a consideration of the facility of access from the different parts of any such district to the capital town thereof; all which considerations shall be balanced, combined, and adjusted by the Governor-in-Chief to the best of his judgment, and as far as it may appear to him practicable in the case of every such district.

7. The Governor-in-Chief shall, by each such Proclamation, constitute the inhabitants of every such municipality or borough a body corporate in name and in deed, with perpetual succession, and a common seal, by the style and title of "The Mayor, Aldermen, and Burgesses of the Borough of" *[adding the name so assigned to each borough respectively].*

8. Every such Corporation shall consist of a Mayor, of a Court of Aldermen, and of a Common Council for the government thereof, and of the burgesses possessing the elective franchise therein.

9. Every such Corporation shall be capable in law, by the Common Council thereof, to do and to suffer all such acts as can be lawfully done or suffered by any Municipal Corporation in England by the Common Council thereof.

10. Subject to the exceptions afterwards mentioned, every male person who, on the first of January in each successive year, shall be in the occupation of any tenement within any such borough of which he shall have been the occupier for six months at the least next immediately preceding that day, shall, during the next ensuing twelve calendar months, be a burgess of the borough in which the same may be situate.

11. But this franchise shall not belong to or be vested in any alien, nor in any person of unsound mind, nor in any person who may at any time theretofore have been convicted of any felony or other infamous crime, nor in any person who has during the last preceding six months been maintained wholly or in part by public alms, nor in any person who may be in arrear for more than six months in respect of any rates or assessments lawfully payable by him to the funds of any such boroughs in respect of any such tenement as aforesaid or otherwise, nor by any person not able to read and to write in the English language.

12. In order to ascertain what persons are qualified to vote and act as burgesses of any such borough, a registry of all such burgesses shall be made, corrected, reserved, and periodically revised, in

such manner and form, and with such securities for the accurate making, correcting, preservation, and revision thereof, as shall be prescribed by the Governor-in-Chief by any such Proclamation as aforesaid. And the Governor-in-Chief shall in like manner prescribe by what means the expenses of and incident to the due performances of the services last aforesaid shall be defrayed, and what fines or penalties shall be payable in the event of the neglect or non-performance thereof.

13. The burgesses of every such borough shall annually elect the Common Councillors thereof to serve for the year then next ensuing; and the Common Councillors of each borough, when so elected, shall annually choose from their own number the Aldermen and the Mayor thereof to serve for the year next ensuing such choice.

14. The Governor-in-Chief shall, in manner aforesaid, prescribe what shall be the number of the Common Councillors of every such borough, and when and in what manner all such elections shall be conducted, and how the result of every such election shall be ascertained, and in what manner any erroneous return shall be corrected, and who shall act as Returning-officers for every such purpose, and at what places and within what periods of time all such elections shall be carried on, and how the expenses thereof shall be defrayed, together with whatever else may be necessary for the due and orderly conduct of such elections.

15. The Governor-in-Chief shall in like manner prescribe in what manner and form any such corporate offices aforesaid may be vacated, and how in any such cases the vacancy shall be ascertained and supplied by new elections, with whatever may relate to the due and orderly conduct of any such new elections.

16. Any person duly qualified who shall be elected to fill any such corporate office as aforesaid in any such borough shall, in the event of his refusal or omission to discharge the duties thereof, be liable to the same fines and penalties to which any person is liable in England for the same offence, which fines or penalties shall be recovered and applied as nearly as may be in the same manner in which the like fines and penalties are recovered and applied in England.

17. The Governor-in-Chief shall in manner aforesaid prescribe all necessary rules respecting the appointment of all other corporate officers in every such borough respecting their number, their remuneration, their duties, the tenure of their offices, and their removal when necessary from office.

18. The Common Council of every such borough shall consist of the Mayor, the Aldermen, and the Common Councillors thereof, for the time being.

19. The Mayor for the time being of every such borough shall, in virtue of such his office, and without any further appointment, be a Justice of the Peace of and for the borough during a period of two years next following on his election.

20. Every Alderman of every such borough, in virtue of such his office, and without any further appointment, shall be a Justice of the Peace of and for the borough so long as he shall continue in the discharge of such his office of Alderman.

21. All by-laws of every such borough shall be made and all other corporate acts of every such Corporation shall be done by the Common Council thereof by the authority and in the presence of whom, and not otherwise, the common seal of the said borough shall be attached to any such acts.

22. The Governor-in-Chief shall, in manner aforesaid, prescribe the manner in which and the authority under which meetings, either periodical or extraordinary, of any such Common Council shall be holden, adjourned, or dissolved, and how the votes of the members present thereat shall be taken, and how the minutes of every such meeting shall be taken and preserved.

23. At every meeting of any such Common Council the Mayor, or, in his absence, some Alderman selected for that purpose by the meeting, shall preside, and such presiding officer shall have both an original and casting vote.

24. Every such Common Council as aforesaid shall have power, at any such meeting as aforesaid, to make and ordain by-laws for the good order and government of the borough.

25. Such by-laws may so be made for any of the several objects following, that is to say—(1.) For the making or the maintenance of any roads or other internal communications from any one part of the borough to any other part thereof. (2.) For the erection and repair of public buildings for any corporate purposes. (3.) For the purchase or sale of any property for any corporate purposes, and for the management of any such property. (4.) For the maintenance of the police within any such borough, and for the proper government and remuneration of any such police force. (5.) For the holding of quarter sessions or petty sessions of the peace of and for any such borough, by the Justices of the Peace thereof. (6.) For the suppression of all nuisances within any such borough prejudicial to the health or comfort of the inhabitants thereof. (7.) For draining, paving, lighting, watching, repairing, cleansing, and maintaining any streets, roads, and other thoroughfares, within any such borough. (8.) For establishing and maintaining schools, hospitals, and other eleemosynary institutions, within any such borough. (9.) For the imposition, collection, accounting for, and auditing of all such tolls, rates, and assessments on property, real or personal, or both, within any such borough, or upon the owners and occupiers of any such property. (10.) For securing the application of the proceeds of all such tolls, rates, and assessments to the discharge of all expenses of and incident to the execution of all or any of the objects aforesaid. (11.) For determining the amount of the salaries or other remunerations to be assigned to any officers of any such borough. (12.) For imposing fines for the breach or neglect of any such by-laws as aforesaid.

26. If any such by-laws shall be repugnant to any law or Ordinance of the General Assembly of New Zealand, or of the Assembly of the province within which the borough may be situate, such by-law shall be null and void.

27. No such by-law shall take effect within any such borough, or shall have the force and authority of law therein, unless the same shall first have been approved by the Governor-in-Chief of New Zealand, and the said Governor-in-Chief shall in manner aforesaid prescribe how, and by whom, and in what form, and within what time, every such by-law shall be transmitted to him for his approbation, and how, and to whom, and in what manner his approbation thereof shall be signified.

28. The Governor-in-Chief of New Zealand shall in manner aforesaid make all other rules, not

being repugnant to the said recited Act, which it may seem to him necessary to make and establish for carrying into full effect the purposes and objects of the preceding Instructions, so far as relates to the before-mentioned boroughs and bodies corporate; and it shall be competent to any such Governor-in-Chief, by any such rules, to modify, or alter, or to suspend the operation of any of the provisions aforesaid, which by reason of any local or temporary causes it may to such Governor-in-Chief appear either impracticable or inexpedient to carry into immediate effect, and to substitute for any such provisions which may be so suspended as aforesaid any other provisions better adapted to meet the exigencies and to promote the welfare of the inhabitants of any such boroughs as aforesaid, or of any one or more of such boroughs.

CHAPTER VI.

On the Election of the Houses of Representatives for each Province.

1. The Governor-in-Chief shall, by such Proclamations as aforesaid, determine what shall be the total number of the first or original members of the House of Representatives of each of the said provinces.

2. To every such borough as aforesaid shall be assigned a number of representatives, bearing to the total number of the representatives for the provinces the same proportion which, in the judgment of the Governor-in-Chief, will probably be borne by the contributions of such borough to the public revenue to the total amount of such contributions.

3. On the detection of any error in any such estimate, the Governor-in-Chief is authorised by any subsequent Proclamation to correct the apportionment of the total number of representatives among such several boroughs, so as to regulate such apportionment in respect of any future elections as nearly as may be according to the actual amount and proportions of such contributions.

4. The Governor-in-Chief shall in manner aforesaid determine and prescribe how, and when, and within what periods the Mayor, Alderman, and Common Council of every such borough shall proceed to the election of the members for such borough to serve in the House of Representatives of the province in which the same is situate, and how, in what form, and by whom the writ or precept for every such election shall be issued, and to whom it shall be addressed and executed as the Returning-officer, and how and to whom the returns to such writs or precepts shall be made, and how the poll shall be taken in case of contested elections, and what shall be the course of proceeding in the case of double returns or of no returns being made, together with every other rule which may be necessary for the due and orderly election of the members of the said Houses, and for lawfully convening and constituting such Houses, until other and more effectual provision shall have been made on that behalf by law, by Ordinances to be for those purposes enacted by the respective Legislatures of the said respective provinces.

5. Every such House of Representatives shall, until provision be otherwise made in that behalf by law, be judges, without appeal, of the validity of the election of each member thereof.

6. Every such House of Representatives shall, immediately on their first meeting, proceed to the choice of one of their own members as their Speaker, which choice, being confirmed by the Governor-in-Chief, the Governor, or the Lieutenant-Governor of the province, shall be valid and effectual during the continuance of such Assembly, except in the case of some intermediate vacancy of the office by death, resignation, or otherwise, in which case the choice shall in like manner be repeated and confirmed.

7. Every such House of Representatives shall be elected to serve for four years from the date of the issuing of the writs for holding such elections.

8. Any vacancy occurring in any such House of Representatives, by the death or resignation of any member thereof or otherwise, shall be supplied by a new election, to be holden in such manner as aforesaid, in and for the borough represented by any such member.

CHAPTER VII.

On the Legislative Councils of the respective Provincial Assemblies.

1. The members of the Legislative Council of each of the provinces of New Zealand shall be appointed by Letters Patent to be for that purpose issued to each member, under the public seal of the province for which he may be so appointed.

2. Such Letters Patent shall be issued in pursuance of warrants under our Signet and Sign-Manual, addressed to the Governor-in-Chief of New Zealand, or to the Governor, or to the Lieutenant-Governor of such province.

3. But on the first constituting and convening of the said Legislative Councils, or either of them, the Governor or Lieutenant-Governor for the time being of the province for which the same shall be so constituted and convened shall, without awaiting such warrants, issue such Letters Patent as aforesaid to and in favour of such persons as he may think proper to nominate to the said Legislative Councils, or either of them.

4. As often as any member of any such Legislative Council shall die or resign his seat therein, or be suspended therefrom, or be absent from the province for which the same is appointed, or become incapable by mental or bodily disease, or of the right discharge of his duties therein, the Governor or Lieutenant-Governor for the time being of the province shall in like manner, without waiting our warrant, appoint a person to occupy the place in the Legislative Council of the member by whom any vacancy therein may, in manner aforesaid, have been created.

5. All appointments made to the said Legislative Council without our previous warrant shall be provisional only and subject to our confirmation or disallowance, but shall nevertheless be valid to all intents and purposes until our pleasure respecting the same shall have been signified.

6. Every provisional appointment so made to the Legislative Council on a vacancy created by the absence of any member with leave of the Governor or Lieutenant-Governor of the province first obtained, shall continue in force only so long as such member shall so continue absent on leave, and on

the return of such member to the province within the time prescribed in his leave of absence he shall resume his place in the said Legislative Council.

7. Any member of either of the said Legislative Councils who shall become bankrupt or insolvent according to any law in force in the said provinces, or who shall be convicted of any felony or other infamous offence, shall thereupon forfeit his place in the Legislative Council to which he may belong, which place shall be considered vacant, and immediately filled up provisionally in manner aforesaid.

8. The members of the said Legislative Councils shall hold their places therein during our pleasure.

9. Every such Legislative Council shall be presided over by a Speaker to be appointed by Letters Patent, to be issued in our name by the Governor or Lieutenant-Governor of the province to and in favour of such member of the said Legislative Council as he shall see fit to appoint for that purpose.

10. No such Legislative Council shall be competent to proceed to the despatch of any business unless a majority of the whole number of members be present.

11. Every question to be decided by any such Legislative Council shall be proposed for discussion by the Speaker thereof, and shall be decided by the majority of votes, the Speaker having no original vote, but having a casting vote, to be given in the event of the numbers being equally divided on any such question.

CHAPTER VIII.

On the General Assembly of the New Zealand Islands.

1. The General Assembly of New Zealand shall be holden at any place and time within the Islands of New Zealand which the Governor-in-Chief shall from time to time by Proclamation for that purpose appoint.

2. The Governor-in-Chief may prorogue or dissolve at his pleasure any such General Assembly.

3. The Governor or Lieutenant-Governor of either of the said provinces may, at his pleasure, prorogue or dissolve the Assembly of such province.

4. During the dissolution of the Assembly of either province no session may be holden of the General Assembly of New Zealand.

5. The Legislative Council of the General Assembly shall for the present and until further provisions be made in that behalf, be composed of one-third of the members of each of the Legislative Councils respectively of the said respective provinces.

6. The Governor-in-Chief shall for the present determine which of the members of each of the said Provincial Legislative Councillors shall be members of the said Legislative Council of the General Assembly.

7. All the rules hereinbefore made respecting the Legislative Councils of the said respective provinces shall, as far as may be practicable, be applied to the said Legislative Council of the General Assembly.

8. The House of Representatives of the said General Assembly shall, for the present and until further provision be made in that behalf, be composed of members to be elected for that purpose by the members of the said Provincial Assemblies respectively from and out of their own Houses respectively.

9. The Governor-in-Chief of New Zealand shall, for the present, determine in what manner and form, and according to what rules, such elections shall be made by the respective Houses of Representatives of the members by whom they are to be represented in the said House of Representatives of the General Assembly.

10. But no such House of Representatives shall so be represented by more than one-third of the total number of the members thereof.

11. All the rules hereinbefore contained respecting the election of Speakers in the said Houses of Representatives of the Provincial Assemblies, and respecting the number of members necessary to form a quorum of each of the said Houses, and respecting the casting vote of the Speaker thereof, shall be applied to the case of the House of Representatives of the General Assembly.

12. The dissolution of either of the said Provincial Assemblies shall be considered as, and shall have the effect of, a dissolution of the said General Assembly; and with the expiration of the time for which any such Provincial Assembly shall have been elected, shall also expire the time for which any such General Assembly shall be competent to sit and act until such General Assembly be re-elected.

13. The Governor-in-Chief of New Zealand shall, by his Proclamations, convene every such General Assembly, and shall himself assent to or reserve for the signification of our pleasure, or decline so to assent or to reserve such Ordinances as may be passed by the Legislative Council and the House of Representatives thereof.

CHAPTER IX.

On the Qualifications of Members of Assembly, and on the Oaths to be taken by them and other Public Officers.

1. No person shall be qualified to be a member of either of the said Houses of Assembly or General Assembly who is an alien, or who has been convicted of any felony or other infamous offence, or who is of unsound mind, or a minor, or an uncertificated bankrupt or insolvent.

2. No person shall be so qualified unless he shall be in actual possession in his own right of freehold lands or tenements in New Zealand of the annual value of twenty pounds, or of leasehold lands and tenements therein of the annual value of thirty pounds, or unless he shall be a contributor to the extent of ten pounds by the year at least, either to the general revenue of one of the said provinces, or to the local rates and assessments of some one of the said bodies corporate within the same.

3. The Governor-in-Chief shall from time to time in manner aforesaid determine how the possession by any such person as aforesaid of such proprietary qualifications as aforesaid shall be ascertained and determined.

4. Every Mayor, Alderman, and Common Councilman of each of the said corporations, and every member of the said Houses of Assembly or of General Assembly, and every other public officer within the said Islands, shall, before entering on the discharge of such his trust or office, take and subscribe the oath of allegiance, which oath, and none other, shall be administered to every such officer by such persons as the Governor-in-Chief shall for that purpose appoint.

5. The said Governor-in-Chief and the said respective Governors and Lieutenant-Governors of the said provinces shall, before entering on the discharge of the duties of their respective offices, take the oaths appointed to be taken by the statutes in that behalf made in the reigns of King George the First and of King George the Third, as amended by the Act passed in the tenth year of the reign of King George the Fourth, intituled "An Act for the Relief of His Majesty's Roman Catholic Subjects," according as the former Acts or the last-mentioned Act shall be applicable to their cases respectively.

CHAPTER X.

On the Forms, the Transmissions, and the Disallowance of Laws.

1. All laws to be enacted by the said Provincial Assemblies shall be styled "Ordinances enacted by the Governor or Lieutenant-Governor of the Province of _____, with the advice and consent of the Assembly thereof;" and all laws to be enacted by the said General Assembly shall be styled "Ordinances enacted by the Governor-in-Chief of New Zealand, with the advice and consent of the General Assembly thereof."

2. No such ordinance of any such Provincial Assembly shall be assented to by any such Governor or Lieutenant-Governor without the previous sanction of the Governor-in-Chief.

3. A transcript of every such ordinance shall be transmitted to us with the least possible delay through one of our principal Secretaries of State, duly authenticated under the public seal of the province, and by the signature of the Governor-in-Chief, or Governor, or Lieutenant-Governor enacting the same.

4. Every such ordinance shall take effect from a time to be therein for that purpose appointed.

5. If any such ordinance be made to take effect from the time of the signification of our pleasure therein, then, unless our confirmation thereof shall have been signified within the colony or province within three years next after the date thereof, every such ordinance shall, from and after the expiration of that time, be considered as being disallowed.

6. If any such ordinance shall be reserved by the Governor-in-Chief, or Governor, or Lieutenant-Governor, for the signification of our pleasure, then, in like manner, the same shall be considered to be disallowed, unless our confirmation thereof shall have been signified within the colony or province within three years next after the date thereof.

7. If any such ordinance shall be disallowed by us, either in the manner aforesaid or by a distinct order for that purpose, the said ordinance shall cease to have any operation or effect, either upon and from such lapse of time, or upon and from the signification of such disallowance within the said colony or province; but such disallowance shall not have any retrospective operation, and shall not render invalid or void any act done under the authority or in pursuance of any such ordinance before such lapse of time, or direct signification of the disallowance thereof, as the case may be.

8. All ordinances made for levying money, or for imposing fines, penalties, or forfeitures, shall grant or reserve the same to us for the public uses, as the case may be, of the whole colony, or of the particular province, and the support of the Government thereof, in such manner as by the said ordinance shall be directed; and no such money shall, by any such ordinance, be made issuable, save only by warrants to be granted in pursuance thereof by the Governor-in-Chief, or by the Governor, or Lieutenant-Governor of the province, as the case may be.

CHAPTER XI.

Of the Civil List.

1. The Civil List Fund appropriated for the maintenance of the said respective Governments, in pursuance of the said Act of Parliament, shall be applied and appropriated to such specific purposes as the Lords Commissioners of the Treasury for the time being, or any three of them, may from time to time direct and appoint.

2. The due application of the said Civil List Fund shall be accounted for to the said Lords Commissioners, or in such manner as they shall appoint.

3. Copies of all the accounts of the application of the said Civil List Fund shall be laid before the said General Assembly and the said Provincial Assemblies respectively for their information.

CHAPTER XII.

On the Appropriation of the Revenue arising from Laws of the General Assembly.

1. All duties, taxes, rates, tolls, and assessments, imposed or made payable in virtue of any ordinance of the General Assembly of New Zealand, shall be appropriated to such specific purposes as by any such ordinance shall be prescribed in that behalf, and to no other, save as hereinafter is excepted.

2. The first application of any such duties, taxes, rates, tolls, and assessments, shall be towards defraying all the expenses of collecting, receiving, managing, and auditing the same.

3. Subject to the preceding deduction, any surplus which may remain of the proceeds of any such duties, taxes, rates, tolls, and assessments, shall be applied to the specific purpose prescribed in the ordinance imposing the same.

4. Subject to all the preceding deductions, the proceeds of any such duties, taxes, rates, tolls, and assessments, shall be paid over to the respective Treasuries of the said respective provinces, for the public uses thereof, and subject to the appropriation of the respective Assemblies of the said provinces respectively.

5. In the apportionment of any such ultimate surplus as aforesaid between the said respective provinces, the part of the surplus to be assigned to each shall bear to the whole of such surplus the same proportion which the part of the gross proceeds raised and collected within such province may have borne to the total amount of the gross proceeds of any such duty, tax, rate, toll, or assessment.

CHAPTER XIII.

On the Settlement of the Waste Lands of the Crown.

1. Charts of the New Zealand Islands shall be prepared with all practicable expedition and accuracy, and especially charts of all those parts of the said Islands over which either the aboriginal natives or the settlers of European birth and origin have established any valid titles, whether of property or of occupancy.

2. In every district into which the said Islands shall be divided in pursuance of these our Instructions, shall be kept a registry of the lands therein situate, distinguishing, with reference to such charts as aforesaid, the settled lands in such district from the unsettled lands therein.

3. At the capital town of each of the provinces of New Zealand shall also be kept a general registry of the settled and of the unsettled lands in that province, with reference to such charts aforesaid.

4. It shall be the duty of every person, and of every body politic and corporate (other than the aboriginal inhabitants of New Zealand) to transmit to the Registrar of Lands for the district in which his or their lands may be situate, a statement of the extent, locality, and metes and bounds thereof, and of the title under which he or they claim the same, all which statements shall be provisionally registered immediately on the receipt thereof at the office of registry.

5. The protector of the aborigines, or any officer appointed to act in that capacity by the Governor or Lieutenant-Governor of the province, shall in like manner transmit to the Registrar of the district a statement of the extent (as nearly as it can be ascertained) and of the locality of all the lands situate within the same, to which any such Natives, either as tribes or as individuals, claim either a proprietary or a possessory title, which claims shall also be forthwith provisionally registered.

6. All lands not so claimed or provisionally registered by the time so to be limited as aforesaid, shall thenceforward be and be considered as vested in us, and as constituting the demesne lands of us in right of our Crown within the New Zealand Islands.

7. Within a time to be for that purpose appointed after such provisional registration as aforesaid of the lands in the said several districts, a Land Court shall be holden in each, for investigating and deciding on the accuracy and validity of such registrations, which Court shall be competent to decide on the accuracy and validity thereof, both as between the claimant on the one hand and us in the right of our Crown on the other hand, and as between different claimants asserting opposite and incompatible titles to the same lands. It shall not, however, be competent to any such Land Court to decide upon or to investigate any titles to lands which at any previous time may have been adjudged to any body corporate, or person or persons, by the sentence of any Court of competent jurisdiction, or which may at any previous time have been granted or assigned by us, or by any Governor-in-Chief, Governor, or Lieutenant-Governor of New Zealand, in our name, or in our behalf, to any such body corporate, or person or persons.

8. The several land registries of the said several districts, being revised and corrected by the adjudications of the said Land Courts, an appeal shall lie from any such adjudication to the Supreme Court of civil justice for the province in which the lands may be situate. The registries of the several districts, when so revised and corrected by the adjudications of such Land Courts, or by the adjudication on appeal of such superior Courts, shall constitute and be received as final and conclusive evidence of the title to any lands comprised in such registries, and as final and conclusive evidence of our title in right of our Crown to all lands not comprised therein.

9. No claim shall be admitted in the said Land Courts on behalf of the aboriginal inhabitants of New Zealand to any lands situate within the said islands, unless it shall be established, to the satisfaction of such Court, that, either by some Act of the Executive Government of New Zealand as hitherto constituted, or by the adjudication of some Court of competent jurisdiction within New Zealand, the right of such aboriginal inhabitants to such lands has been acknowledged and ascertained, or that the claimants or their progenitors, or those from whom they derived title, have actually had the occupation of the lands so claimed, and have been accustomed to use and enjoy the same, either as places of abode or for tillage, or for the growth of crops, or for the depasturing of cattle, or otherwise for the convenience and sustentation of life by means of labour expended thereupon.

10. For insuring the observance of the preceding rules respecting the preparation of the charts and keeping of the registries aforesaid, and for determining the methods to be followed in drawing up and transmitting such claims as aforesaid, and in the provisional registration of them, and for ascertaining and regulating the constitution and proceedings of the said Land Courts, and the mode of proceeding upon appeals to be thence brought to the said Supreme Courts, and otherwise for carrying into full effect these our instructions respecting the several matters aforesaid, the Governor-in-Chief of New Zealand shall, by Proclamations to be by him for that purpose issued, make and establish all such rules as in pursuance of the powers in him in that behalf vested by the said recited Act of Parliament and charter, and by these our Instructions, it may be competent to him so to make and establish, and, so far as it may not be competent to such Governor-in-Chief to establish such rules, it shall be his duty to propose to the respective Legislatures of the said respective provinces the enactment of all such laws as may be necessary for that purpose, that so the extent and limits of the demesne lands of us in right of our Crown within the said islands, available for future settlement, and the extent and limits of the lands of the aboriginal inhabitants, and the extent and limits of the lands of the inhabitants of European origin, may severally be distinctly ascertained.

11. No conveyance or agreement for the conveyance of any of the lands of or belonging to any of the aboriginal Natives, in common as tribes or as communities, whether in perpetuity or for any definite period, whether absolutely or conditionally, whether in property or by way of lease or

occupancy, which may be henceforth made, shall be of any validity or effect, unless the same be so made to or entered into with us, our heirs and successors; and for the enforcement and due observance of this rule according to the true and full intent and meaning thereof, the Governor-in-Chief shall recommend to the said respective Legislatures the enactment of all such laws as may be necessary in aid of the powers by the said Act of Parliament or by us so vested in him as aforesaid: Provided that nothing herein contained shall apply to any such conveyance or agreement if made or entered into by any such aboriginal native or natives of New Zealand in respect of any lands by him, her, or them holden in severalty or so holden under any title or tenure in use in and known to the law of England.

12. All the lands so ascertained as aforesaid to constitute the demesne of our Crown in New Zealand are and shall be holden by us, our heirs and successors, in trust for the benefit of our subjects, and especially for the benefit of such of them as have settled or shall hereafter settle within the said islands.

13. The said demesne land shall, by Proclamations to be issued by the respective Governors of the said provinces, be divided into counties, hundreds, townships, and parishes, each of which shall be exactly defined in such Proclamations with reference to such charts as aforesaid of the said islands.

14. No land of and belonging to us in New Zealand shall by us, our heirs or successors, or by any such Governor-in-Chief or other person on our behalf and on our authority, be alienated, either in perpetuity or for any definite time, either by way of grant, lease, license of occupation, or otherwise, gratuitously, nor except upon, under, and subject to the regulations hereinafter prescribed.

15. No part of the before-mentioned demesne lands of us, in right of our Crown in New Zealand, shall be alienated to any person or body corporate, unless the same shall be included within the terms of some Proclamation issued by the Governor or Lieutenant-Governor of the province within which the same shall be situate, declaring for three calendar months at the least next before any such alienation that such lands are thenceforward to be within the limits of settlement.

16. No such lands shall be so alienated unless the same shall have been previously surveyed, and distinguished by an appropriate numerical mark in the chart of the county, hundred, township, and parish within which the same may be situate.

17. The Governor or Lieutenant-Governor of any such province, with the advice of the Executive Council thereof, shall, in such charts as aforesaid, cause to be marked out and distinguished all such lands situate within and forming part of the demesne of the Crown as may appear best adapted for the site of future towns, and especially seaport towns, within the said islands; or as the lines of internal communication, whether by roads, canals, railways, or otherwise; or as places fit to be reserved as quays, landing places, or otherwise for the general convenience of trade and navigation; or as places of military or naval defence; or as the sites of churches, courthouses, markets, hospitals, prisons, or other public edifices; or as cemeteries, or as places fit to be reserved for the embellishment or health of towns, or for the recreation of the inhabitants thereof, or otherwise for any purposes of public utility, convenience, or enjoyment, in which either the whole population of the province or any large number of the inhabitants thereof may have a common interest: all which lands shall be called and be known by the name of reserved lands.

18. All such reserved lands, with the exception of such as shall be reserved as the future sites of towns, may, by the Governor or Lieutenant-Governor of the province in which they are situate, be conveyed to any body politic or corporate gratuitously, to be holden by them in trust for the public uses for which the same were so reserved, and for none other.

19. The lands reserved as the sites of towns shall be divided into two classes, of which the one shall be called "town allotments" and the other "suburban allotments," the town allotments being such as will probably become the future sites of buildings, the suburban allotments being such as will probably acquire a greatly-enhanced value from the close vicinity to such buildings.

20. All the demesne lands of us, in right of our Crown, brought by any such Proclamation as aforesaid within the limits of settlement, shall be alienated in manner hereinafter mentioned, and not otherwise, the same being, with a view to such alienation, divided into three classes, of which the first class shall consist of such town allotments, the second class of such suburban allotments as aforesaid, and the third class of rural allotments.

21. In reference to each town, and to the suburbs of each, the Governor or Lieutenant-Governor of the province shall by Proclamation determine what shall be the number and the extent of the allotments therein, care being taken that in all such towns allotments be so made in reference to some convenient plan previously fixed for the erection of such town, and that no town allotments shall be greater in extent than will probably be required as and for the site of a single edifice, with such adjacent land as may probably be necessary for the use and enjoyment of the future occupants of such edifice.

22. No rural allotment within the said demesne shall exceed in extent one square mile; but it shall be competent to any such Governor or Lieutenant-Governor to divide any such allotment for the purpose of such alienation as aforesaid into allotments of one-half or of one-quarter of a square mile.

23. Rural allotments shall, by such Proclamations as aforesaid, be divided into such as are supposed and such as are not supposed to contain valuable minerals.

24. No part of the demesne of us, in right of our Crown in New Zealand, shall be alienated, either in perpetuity or otherwise, either absolutely or conditionally, until after the same shall first have been put up to sale at a public auction, of which auction three calendar months' notice shall first have been given by such Proclamation as aforesaid.

25. At every such public auction such lands shall be put up to sale in such lots as aforesaid, at a minimum upset price.

26. No rural allotment shall for the present be so put up for sale at any minimum price less than twenty shillings for each acre of land in each such allotment contained.

27. The respective minimum upset prices of rural lands supposed to contain such minerals, of suburban lands, and of town lands respectively, shall always be the same in respect of each separate allotment of the same extent comprised in any one of those several classes respectively. Such upset

price shall always exceed the before-mentioned upset price of twenty shillings an acre, the amount of such excess being from time to time determined by such Proclamations as aforesaid in respect of the allotments contained in each of the said several classes of land.

28. It shall be competent to any person within three calendar months next after any such auction to become, without any further auction, the purchaser of any lands so put up to sale as aforesaid, and not then sold, by offering and paying for the same the upset price at which the same may have been so put up to sale.

29. Immediate payment in cash shall be the indispensable condition of every such sale as aforesaid whether effected at any such auction or upon any such subsequent purchase as aforesaid.

30. It shall be competent to the Governor or Lieutenant-Governor of any such province as aforesaid to demise for any term of years (not exceeding twenty-one) any such rural allotments as aforesaid supposed to contain any valuable minerals, reserving to us, our heirs and successors, a royalty of not less than fifteen per centum on the minerals to be raised upon and from any such lands, and to introduce into any such lease all covenants necessary for the faithful discharge on the part of the lessee or those claiming under him of all the terms and conditions thereof.

31. A separate account shall be kept by the Treasurer of each of the said provinces of the gross proceeds of the said land-sales, rents, and royalties, and of all the costs, charges, and expenses of and incident in any way to the sale, survey, administration, and management of the said demesne of us in right of our Crown; and, after deducting from such gross proceeds all such costs, charges, and expenses, the net balance shall be by us held in trust for defraying the cost of introducing into the said respective provinces emigrants from the United Kingdom, or in trust for defraying the costs of such other public services therein as by us shall from time to time be prescribed by instructions to be issued in pursuance of the said Act of Parliament under our Signet and Sign-Manual, with the advice of our Privy Council.

32. Provided always that nothing herein contained shall interfere with the promulgation by us, as we may hereafter be advised, of any other and further Instructions respecting the occupation of lands forming part of the demesne of us, in right of our Crown in New Zealand, by way of lease or license for any term of years, or for any shorter time; but that such occupation, leases, and licenses, shall be regulated by such further Instructions as we shall hereafter for that purpose issue in pursuance of the said recited statute.

33. Provided also that nothing herein contained shall extend, or be considered as extending, to the temporary occupation of any lands forming part of the demesne of us in right of our Crown in New Zealand, by any person or persons so occupying the same for the purpose of depasturing sheep or any other description of cattle thereon under any lease or license to be to any such person for that purpose granted; but that whatever relates to any such occupation of any such lands for any such purposes as aforesaid shall be regulated by such further Instructions as we shall for that purpose issue, and in the meantime by such Orders as shall in that behalf be made by the Governor-in-Chief of New Zealand.

CHAPTER XIV.

Respecting the Aborigines of New Zealand.

1. The Governor-in-Chief shall, by Proclamation to be for that purpose issued, set apart, as he shall see occasion, particular districts of New Zealand under the designation "Aboriginal Districts."

2. Within such districts the laws, customs, and usages of the aboriginal inhabitants, so far as they are not repugnant to the general principles of humanity, shall for the present be maintained.

3. Within such districts such native chiefs or others as shall be appointed or approved by the Governor-in-Chief for that purpose shall interpret and carry into execution such laws, customs, and usages as aforesaid, in all cases in which the aboriginal inhabitants themselves are exclusively concerned.

4. Any person, not being an aboriginal native, and being within any such district, shall, during such his continuance therein, respect and observe such native laws, customs, and usages as aforesaid, on pain of such penalties for the violation or breach thereof as may be inflicted on him by the sentence of any Court or Magistrate in any other part of the province within which such aboriginal district may be situate.

5. The jurisdiction of the Courts and Magistrates of the entire province shall extend over the said aboriginal districts, subject only to the duty so incumbent on them of taking notice of and giving effect to the laws, customs, and usages of such aboriginal inhabitants as aforesaid in respect of all such cases as aforesaid.

6. In cases arising between the aboriginal inhabitants of New Zealand alone, beyond the limits of the said aboriginal districts, and in whatever relates to the relations to and the dealings of such aboriginal inhabitants with each other beyond the same limits, the Courts and Magistrates of the entire province, or of the district in which such cases may arise, shall enforce such Native laws, customs, and usages as aforesaid.

7. The Governor-in-Chief may from time to time contract or enlarge the limits of any such aboriginal districts; but no such district shall ever comprise any lands which the Governor-in-Chief may by Proclamation have declared to be within the limits of settlement.

No. 7.

(Confidential.)

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

SIR,—

Downing Street, 20th November, 1847.

I have had the honour of receiving your two confidential despatches of the 3rd and 13th of May. The reasons which you have urged in support of the conclusion to which you had come, that the Colony of New Zealand is not yet ripe for the enjoyment of representative Government, are such

as at once to command the assent of Her Majesty's servants ; and, deeply as we lament the necessity of doing so, we will not fail to adopt the steps which are required for suspending for a time the operation of so much of the Letters Patent and Instructions transmitted to you in my despatch of the 23rd of December last as relates to the establishment of representative bodies having the power of general legislation. With this view it will, however, be indispensable that the aid of Parliament should be invoked ; nor is it in my power, without further time or deliberation, to inform you what will be the precise arrangements which Parliament will be invited to sanction ; but I think it advisable to take this the earliest opportunity of acquainting you that we are prepared to act upon your advice by suspending the operation of the Constitution granted to New Zealand to the extent I have mentioned, and that it will, therefore, be inexpedient that, until you can receive further instructions, you should take any steps beyond those you may have already adopted to carry into effect those previously transmitted to you on this subject.

Governor Grey, &c.

I have, &c.,

GREY.

No. 8.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

SIR,—

Downing Street, 30th November, 1847.

I have to acknowledge your two confidential despatches of the 3rd and 13th of May, 1847. In these you express the apprehension you entertained respecting the proposed introduction into the Colony of New Zealand of the Charter established under the Act 9 and 10 Vict., c. 103, by Her Majesty's Letters Patent of the 23rd December, 1846, and the Instructions accompanying them, and you state at length your objections to the immediate adoption of various provisions of that Charter, especially those by which a representative Legislature is constituted.

After the most attentive consideration which I have been able to give to your arguments, I have come to the same conclusion with yourself that, in New Ulster at all events, it is inexpedient to bring into operation the provisions of the Charter relating to representative Government until some time has been given for the gradual removal of difficulties which I trust are only temporary. The grounds on which you rest your objection to the immediate introduction of the contemplated change in the Government of the colony are in themselves sufficiently powerful to make the subject one of anxious deliberation. But, in addition to this, I have felt it my duty to give to your opinion all that personal weight to which it is entitled, from your tried ability and intimate acquaintance with the Colony of New Zealand, and with the character and habits of its population, both European and Natives. And the result is that, however reluctant I may feel to adjourn the execution of measures from which I anticipate great ultimate advantages, and possibly in doing so to disappoint expectations justly excited, I am, nevertheless, compelled to recognise the propriety of suspending for a time the operation of this important part of the Charter. This will, I trust, be comparatively easy to effect, inasmuch as your despatch of the 3rd May, 1847, assures me that your intention then was to refrain from giving effect, at all events in the northern portion of New Zealand, to so much of your Instructions as related to the creation of representative institutions until you should receive my reply.

The situation of New Munster is in some important circumstances different from that of the northern province. Those circumstances are referred to by yourself in the despatches already mentioned, and also in your former despatch of the 7th October, 1846. They are such, if I rightly understand you, as, notwithstanding the risks which inevitably attach to all new measures of policy, to render it upon the whole not inexpedient to introduce at once into its constitution the principle of popular representation, although you do not seem to recommend that this should be done in the manner and to the extent contemplated by the Charter. The language and date of your last despatches, those of May, 1847, leave me also in some uncertainty whether you may not by the time this despatch reaches you have already constituted the House of Representatives for the southern province. More probably, however, this will not be the case. And assuming that no step will have been taken beyond the performance of the necessary preliminaries, I have thought that, upon the whole, greater inconvenience would arise from granting to one part of the colony institutions which are withheld for a season from the other, than from extending to both a delay which may be imperatively called for by the circumstances of one only. Her Majesty's Government, therefore, propose applying to Parliament for power to suspend the operation of this part of the Charter in the whole colony. I shall presently state the course which should be pursued if the parts of the Charter in question should be already in operation in New Munster.

You state in your despatch of the 3rd of May that, although you intended to proclaim the new Charter immediately, the preliminaries necessary for introducing the proposed representative institutions could not occupy less than a twelvemonth. If so, when this despatch arrives there will be no legislative authority in existence, since the Council, which formerly exercised that function, will have been dissolved and the new Legislature not yet constituted. In order, therefore, to secure to the colony the indispensable functions of a legislative body during the period for which it may be necessary to postpone the introduction of representative institutions, the aid of Parliament will be necessary. A Bill will accordingly be introduced into Parliament for this purpose, which will empower Her Majesty to suspend, for the period of five years, the execution of so much of the Letters Patent of the 23rd December, 1846, as relates to the establishment of a separate Assembly in each of the two provinces into which the colony is now divided, and to the establishment of a General Assembly of New Zealand; and so much of the Instructions issued therewith as relates to the constitution of a separate Legislature for each province, and of a general Legislature for the whole colony. In lieu thereof the Bill will empower Her Majesty to reconstitute, for the same limited time, the Legislative Council established by the Letters Patent of the 9th December, 1840, with the same powers which it possessed before its abolition by the new Charter, and with certain additional powers hereinafter specified.

The new or reconstituted Legislative Council will, therefore, in the first instance, consist of the persons to whom seats in it were assigned by the Charter of 1840 ; but as a Council thus composed

may not satisfy the requirements of the temporary order of things, it is intended that power should be given to yourself to add to its number. I have, however, already remarked that I am uncertain whether at the time when this despatch reaches you, you may not already have authorised the election of the House of Representatives for New Munster, and perhaps called the Provincial Assembly together. I feel also that, in addition to the precautions which this contingency renders necessary, it may be very important for the welfare of the colony that during the period of the suspension of the new Constitution each of the provinces should enjoy the benefit of a separate Legislature. On this subject I need not repeat the reasons which I adduced in favour of the measure in my despatch of the 23rd of December, 1846, accompanying the Charter, more especially as I gather from your present despatches that you concur in the views I have there stated. It is therefore proposed that the Legislative Council should be empowered to constitute two subordinate Provincial Legislative Councils during the period for which the operation of the existing Charter is to be suspended. As this measure is avowedly temporary only, it is not intended to suggest the imposition of any restrictions on the Legislative Council in this respect, but rather to leave that body itself to determine the number of the members of such Councils, and from time to time to make additions to it as may seem expedient. It will also be left in their power to determine whether or not members of their own body shall be also, and at the same time, capable of being members of the Provincial Legislative Councils. It will also be in the power of the Legislative Council, should it so deem advisable, to introduce representative members into either Provincial Council, and to determine their constituency and the manner of their election. If two Provincial Legislatures should be found to be necessary when constituted in this manner it is proposed that they should perform all the functions and exercise all the powers which by the Acts, Letters Patent, and Instructions are vested in the intended Provincial Legislative Assemblies, leaving it to the reconstituted Legislative Council of 1840 to perform the functions and to exercise the powers confided by those instruments to the intended General Assembly.

I am sensible that such a delegation of authority to constitute legislative bodies is a very unusual measure. But the great interval of time which passes between the sending of a despatch from New Zealand and the receipt of a reply, rendering it impossible to feel confident that directions given here in consequence of your account of the state of affairs will be applicable to that state of affairs which may exist when those directions reach you, and the peculiar circumstances of the colony with which only those on the spot can become thoroughly acquainted, make this appear to me the only safe course for our present purpose.

With the insight which former despatches have given you into the views of Her Majesty's Government, and with your own knowledge of the requirements of the community under your charge, you will be able to carry into effect these general directions so far as their execution depends on yourself. For instance, if, when you receive this despatch, you should have already constituted the Provincial Assembly of New Munster, the powers of that body will be inevitably arrested for the present by the operation of the suspending Act. In that case you may consider it advisable that the Legislative Council should exercise the powers conferred upon it by keeping on foot the already constituted Provincial Assembly, and conferring on it those powers of legislation which would belong, according to the plan explained above, to the Provincial Legislative Council. If, on the other hand, the Provincial Assembly of New Munster should not have been already constituted, you may consider it advisable that the Legislative Council for that province should contain, nevertheless, some admixture of representative members which you may deem it best to withhold from New Ulster. Lastly, should you for any special reasons esteem the establishment of Provincial Councils premature, and that the legislative functions of the general Council are sufficient for the wants of the colony during the interval which is to elapse before the Charter comes into effect, you can exercise your discretion on this subject also, remembering that the functions of Government may be lightened by the establishment of the Town Councils; and that if the Legislative Council feels itself able to place at the disposition of those bodies whatever portion of the general revenue may not be required for general purposes, they may effectually manage all matters of purely local concern. On these points, I shall rely with confidence on your judgment in proposing such measures as you shall deem expedient, and on the zealous co-operation of the Legislative Council in considering them, and passing the necessary Ordinances.

I have also carefully considered the objections which you suggest to the immediate execution of that portion of the Charter which relates to the establishment of Municipal Corporations, and the result is, that these objections have appeared to me rather to apply to the exclusive enjoyment by British settlers of municipal privileges to which the Natives were not admitted than to the creation of municipalities. It certainly would be a grievance calculated to excite just discontent if Natives resident in the boroughs, possessing property in them which would be liable to rates and so much advanced in intelligence as you describe some of them to be, should be subjected to the burthens of a municipal system while excluded from the municipal franchise. It has, however, appeared to me that this objection would be better met by admitting the Natives to the franchise, subject to the precautions which will presently be detailed, than by deferring the creation of these municipal bodies, together with that of the representative Assemblies; for the delay which it is found necessary to interpose before the people of New Zealand can be admitted to exercise the higher functions of self-government seems rather to furnish an additional reason for establishing at once those subordinate institutions which have been justly regarded as affording the best preparation for the enjoyment of political rights.

The following is the substance of the fresh Instructions which I have thought it advisable to cause to be issued to you regarding the municipal franchise. That franchise is vested by the Charter in every male person occupying a tenement within a borough. It is now proposed to confine it to tenements of such value as the Legislative Council may fix as qualifying to vote. The franchise is also by the Charter made subject to the following restriction: That it is not to be enjoyed "by any person not able to read and write in the English language." I have, upon the whole, thought it best to advise not that this Charter should be altered by removing this restriction, but that you should have a discretionary power to dispense with it. You will, therefore, be empowered to grant to such persons as you may consider to deserve that privilege certificates that, although they may not be able to read and to write the English language, they are good and faithful subjects of Her Majesty, possessing the intelligence

necessary for qualifying them to take a part in the administration of local affairs ; and the possession of such a certificate will entitle the occupier of a tenement of adequate value, though he may not be able to fulfil the condition of reading and writing the English language, to be placed on the register of the borough and to exercise his franchise.

This measure will apply, as you will not fail to observe, in the first place to foreigners of European origin naturalised according to the colonial laws. These settlers are said to be in general intelligent as well as industrious and orderly, although they may not be able to read and write the English language ; and, as a general rule, you will naturally grant certificates to all of this class who apply for them, unless for special reasons which appear to your mind sufficient to justify their being withheld. It will apply in the next place to the Natives occupying tenements within the limits of boroughs, and it was with a view to these that the restriction was originally conceived. With respect to them you have recommended in your despatch of the 3rd of May that the Governor should be empowered from time to time to name certain Natives who should have the privilege. It is the object of the additional Instructions which you will receive to carry into effect this recommendation, and accordingly the granting or withholding certificates to the Natives will be a matter on which you must exercise your own discretion, both as to any general rules to be established and as to their application to particular instances. You will easily understand that it is the very earnest wish of Her Majesty's Government to accelerate the coming of that time, which I hope it is not unreasonable to anticipate, when Her Majesty's subjects of all races in New Zealand may be brought together under the bond of common free institutions. There are, doubtless, many impediments in the way of the early realisation of such a prospect, which must strike the most ordinary observer, particularly those arising out of the peculiar character and circumstances of the Native race, which you have stated for my consideration ; still I hope I am not too sanguine in adding that, on the other hand, the aptitude of the New Zealanders for the acquisition both of knowledge and of wealth, the comparative ease with which a large part of the nation has liberated itself from the worst trammels of its former servitude—in a word, the superiority of their faculties to those of most other savages—justify the belief that the experiment may be tried, in their case, with encouraging prospects of final success. In the meantime, you will be able to observe the numbers and the dispositions of those who reside within the municipal districts. Of course I have as yet no information as to the extent of the different boroughs which you have probably by this time formed ; but, assuming that their limits are such as I contemplated in framing the Instructions, I am inclined to suppose such resident Natives will not be so numerous or so unmanageable that they would be likely to obtain a preponderating or a mischievous influence in municipal elections, were they freely admitted to the register of burgesses. If I am right in this conjecture, your task of selection will be easier ; if otherwise, you will be able to preserve the proper balance by a more sparing and discriminating admission. It would be inconsistent with that free exercise of the elective franchise, without which it would have no value, if it were capable of being withdrawn at pleasure ; such certificates, therefore, when once granted, will remain permanently in force, unless the holder should be convicted on any criminal charge which, in the opinion of the Court before which he is tried, may justify his being deprived of the municipal franchise, in which case this certificate will be cancelled.

Such is the outline of the powers and trusts which will be vested in you by the measures now in preparation. The confidence which Her Majesty's Government reposes in you, justified by experience of your conduct under many trying and difficult circumstances, renders it, in my opinion, unnecessary to enter into minuter details. It is not without much regret that Her Majesty's Advisers have felt themselves compelled to recommend the temporary suspension of a measure which had received the sanction of Parliament, with their own full persuasion of its utility. They are not insensible to the evil of even delaying the adoption of those institutions which have extended themselves along with the extension of the British race, wherever established. A sense of what is due to the public safety could alone have induced them to sanction this departure from the plan originally chalked out for the domestic policy of the colony, and they rely on your assistance to render the period for which it is proposed that the Charter should be suspended an opportunity for preparing both settlers and Natives to fill duly the positions which will be respectively assigned to them by the Constitution under which they are to live.

Governor Grey, &c.

I have, &c.,
GREY.

No. 9.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 17.)

SIR,—

Downing Street, 18th March, 1848.

You will receive herewith the Act to suspend for five years the operation of certain parts of an Act for making further provision for the government of the New Zealand Islands, which received Her Majesty's assent on the 7th of this month.

The general scope of this measure, as well as the reasons on which it is founded, have been already explained to you in my despatch of the 30th November, insomuch that it only appears necessary now to add a few practical directions respecting some of its more important provisions.

As I pointed out in the despatch above cited, it was intended to give you, and this Act confers, the power to keep on foot the Provincial Assembly for New Munster, if you should already have constituted one, by passing an Ordinance conferring on it the same powers which it possessed when constituted, or modifying those powers as may seem advisable. This, however, is a provision merely adopted in order to meet a possible contingency. I assume that it is more probable no such Provincial Assembly will have been constituted. In that case it will be in your power, if you and your Council think fit, to establish, in either or both provinces, legislative bodies of the kind described by yourself in your confidential despatch of 3rd May, 1847, wherein you express the opinion that a Council "composed of official and unofficial members, the unofficial members being elected by the inhabitants of the colony," would for the present be the form of Government best suited to the wants of the people, and in no respect repugnant to their feelings. It would be practicable also, as has been

suggested by some authorities at Home, to give *ex officio* seats in these Councils to the Mayors of the several boroughs. But the constitution of such Legislatures for the period of suspension, or of any other form of legislation which experience and local knowledge may suggest, is left for the present to your discretion, with the assistance of your Council. And if no serious inconvenience were likely, in your judgment, to arise from the delay, I should consider it highly expedient that Ordinances passed for the constitution of such Legislatures should contain clauses suspending their operation until Her Majesty's pleasure can be signified, since it is possible that their disallowance might occasion much inconvenience. If, however, you should be of opinion that the introduction of a constitutional Government for the period of suspension into either province is much required, and ought to come immediately into operation, I do not wish to fetter your discretion by insisting on the introduction of such a clause; and I have so much reliance upon your judgment, that I think it highly improbable that your Council would frame an Ordinance for this purpose which Her Majesty would be advised to disallow.

I am fully aware, and much regret, that the course which I have taken, both in introducing this measure and in the instructions which I have given upon it, imposes on you a great amount of responsibility. It may be necessary for you to refuse to exercise, to such an extent as the settlers may desire, the power which you will be known to possess of extending to them the advantages of representative Government; it may be necessary for you also to act to the best of your own judgment in circumstances in which you might have preferred, and naturally expected to receive, the specific directions of the Home Government. But after giving the subject my most anxious attention, I have not been able to discover any other mode of proceeding which would not be open to still greater objections than that which I have taken, of making this unusual demand, and placing this more than ordinary reliance on the exertions and judgment of yourself and of those whom you have selected, or may select, as advisers. If there exists any strong desire on the part of the settlers for an immediate enjoyment of a completely representative Government, I trust that feeling will be qualified by the reflection that the very first principle and foundation of that order of government is, that the representatives of the people provide, by taxes imposed on their constituents, for the expense of the administration of public affairs which they control. So long, therefore, as the Mother-country provides a large part of the expense incurred in the government of New Zealand, the settlers have reason to be satisfied with exercising only a moderate share of direct influence over the Legislature. And when they obtain a complete system of representation, they may fairly be expected to take upon themselves the burden, together with the advantages, of representative Government.

I have, &c.,
Governor Grey, &c.

GREY.

Enclosure in No. 9.

ANNO UNDECIMO VICTORIÆ REGINÆ.—CAP. V.

AN ACT to suspend for Five Years the Operation of certain Parts of an Act of the Tenth Year of Her present Majesty, for making further Provision for the Government of the New Zealand Islands, and to make other Provisions in lieu thereof. [7th March, 1848.]

9 and 10 Vict., c. 103.—So much of recited Act, &c., as relates to the constitution and establishment of Assemblies &c., in New Zealand, suspended.

WHEREAS by an Act passed in the tenth year of the reign of Her Majesty, intituled "An Act to make further Provision for the Government of the New Zealand Islands," certain powers were vested in Her Majesty, to be executed by Letters Patent, to be from time to time issued under the Great Seal of the United Kingdom, or by Instructions under Her Majesty's Signet and Sign-Manual, approved by her Privy Council, and accompanying or referred to in such Letters Patent: And whereas, in pursuance of the said Act, Her Majesty did, by Letters Patent, bearing date at Westminster the twenty-third day of December, in the year aforesaid, and by certain Instructions made and approved as required by the said Act, and bearing even date with and accompanying the said Letters Patent, execute certain of the powers by the said Act vested in Her Majesty for the better government of the said Islands, reserving by the said Letters Patent full power and authority to herself, her heirs and successors, from time to time to amend, and for that purpose to add to or, if necessary, to repeal the said Letters Patent and Instructions: And whereas it is expedient that certain of the provisions of the said Act, Letters Patent, and Instructions should not for the present be carried into effect; but doubts have been entertained whether the said Act is sufficient to enable Her Majesty to suspend the operation of the same, and of the said Letters Patent and Instructions, or any of them: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that so much of the said Act, Letters Patent, and Instructions as relates to the constitution and establishment of two or more separate Assemblies within the said Islands, and to the constitution and establishment of a General Assembly in and for the said Islands, and to the powers, rights, and privileges of such Assemblies respectively, and to the qualifications of the members of such Assemblies, and to the manner of their election and appointment, and to the forms, the transmission, and the disallowance of laws and Ordinances to be enacted by the said Assemblies respectively, and to the appropriation of the revenues arising from laws of the General Assembly, shall be suspended for the period of five years from the day of the passing of this Act, unless Her Majesty, by and with the advice of her Privy Council, shall direct that the said Act, Letters Patent, and Instructions shall, before the expiration of that period, be carried into effect.

So much of 3 and 4 Vict. c., 62, of Letters Patent, dated 16th November, 1841, and of Instructions, dated 5th December 1841, as relate to the Legislative Council, &c., revived during the said suspension.

II. And whereas by the said first-mentioned Act another Act passed in the fourth year of Her Majesty's reign, and certain Letters Patent, bearing date the sixteenth day of November, in the same year, and all Charters, Letters Patent, Instructions, and Orders in Council made and issued in pursuance of the last-mentioned Act, were repealed, abrogated, and annulled, as therein mentioned: And

whereas by the said Letters Patent, bearing date the sixteenth day of November, in the fourth year of Her Majesty reign, and by certain Instructions bearing date the fifth day of December, in the same year, Her Majesty did, amongst other things, authorize the Governor for the time being of the said Islands, and certain other persons, to be a Legislative Council for the said Islands, and did require and enjoin that the said Legislative Council should, in pursuance of the last-mentioned Act, make and ordain all such laws and Ordinances as might be required for the peace, order, and good government of the said Islands: And whereas it is expedient to revive the operation of the last-mentioned Act, Letters Patent, and Instructions, in so far as the same relate to the Legislative Council established, or to be established, under and by virtue of the last-mentioned Act, Letters Patent, and Instructions for the time during which the said first-mentioned Act, Letters Patent, and Instructions continue to be suspended as aforesaid by virtue of this Act: Be it therefore enacted, that the said Act, Letters Patent, and Instructions of the fourth year of Her Majesty's reign, in so far as the same relate to the Legislative Council last aforesaid, and to the constitution, rights, powers, jurisdiction, and authority of the same, shall be revived, and be in full force and operation for the time during which the first-mentioned Act, Letters Patent, and Instructions continue to be suspended as aforesaid by virtue of this Act; and that during such time the said Legislative Council shall have and exercise all the rights, powers, jurisdiction, and authority which it had or was invested with, or was to have or be invested with, under and by virtue of the last-mentioned Act, Letters Patent, and Instructions, or any of them, or any other Letters Patent or Instructions granted or issued, or to be granted or issued, under the last-mentioned Act; and that all laws, Ordinances, Acts, and things lawfully done by the said Legislative Council during such suspension as aforesaid shall be and remain in full force and effect after and notwithstanding the termination of such suspension, until and unless they be hereafter repealed by competent authority in that behalf.

Power to Governor-in-Chief to increase the number of Legislative Council.

III. And be it enacted that, for the time during which the said first-mentioned Act, Letters Patent, and Instructions continue to be suspended as aforesaid by virtue of this Act, it shall be lawful for the Governor-in-Chief of the said Islands, from time to time as he may think proper, but subject to the disallowance of Her Majesty as hereinafter mentioned, to add to the members of the said Legislative Council, and for that purpose from time to time to summon and appoint such person or persons as he may think proper to be personally, or by virtue of his or their office, member or members of such Legislative Council; and the said Legislative Council, with such additional member or members, and every member thereof, shall have and exercise the same rights, powers, jurisdiction, and authority as the said Legislative Council, or any member thereof, had or exercised before any addition to the same was made.

Power to Governor-in-Chief to constitute Provincial Legislative Councils.

IV. And be it enacted that, for the time during which the first-mentioned Act, Letters Patent, and Instructions continue to be suspended as aforesaid by virtue of this Act, it shall be lawful for the said Governor-in-Chief, by and with the advice and consent of the said Legislative Council, by Ordinance, if he shall think proper, to constitute within and for any of the provinces into which the Islands of New Zealand are now or may be hereafter divided, a Provincial Legislative Council, to be appointed or elected, or appointed and elected in such manner and by such person or persons as by such Ordinance shall be provided in that behalf; and the Provincial Legislative Council or Councils so constituted shall have all such rights, powers, jurisdiction, and authority as shall be granted in that behalf to the said Provincial Legislative Council or Councils, or either of them, by such Ordinance and none other.

Power to Governor-in-Chief to regulate qualification for burgesses in corporate districts.

V. And whereas, by the said first-mentioned Instructions, the said Governor-in-Chief was directed to divide certain parts of the said Islands into municipal districts, and to constitute within such districts Municipal Corporations, consisting of a Mayor, Court of Aldermen, and Common Council, and of burgesses possessing the qualification prescribed by the said first-mentioned Instructions in that behalf; and whereas it is expedient that the said qualification should be subject to regulation as hereinafter mentioned: Be it therefore enacted, that it shall and may be lawful for the said Governor-in-Chief, from time to time, by and with the advice and consent of the said Legislative Council, by Ordinance, to depart from the said first-mentioned Instructions in so far as the same relate to the nature and extent of the said qualification, and to make and ordain such other or further rules and regulations with respect to the nature and extent of the qualification for burgesses in the said municipal districts, or any of them, or in any particular case, as the said Governor-in-Chief, by and with the like advice and consent, may think proper, anything in the first-mentioned Act, Letters Patent, or Instructions to the contrary notwithstanding.

Power to Her Majesty to disallow any orders, &c., of the Governor-in-Chief.

VI. Provided always, and be it enacted, that it shall be lawful for Her Majesty, if she shall think proper, from time to time to disallow any order for addition to the number of the said Legislative Council, or with respect to the qualification of burgesses in any municipal district; and in case of such disallowance, upon the same being signified to the said Governor-in-Chief within the said Islands, the order or Ordinance so disallowed shall be annulled to all intents and purposes whatsoever, except in so far as relates to any law, Ordinance, Act, matter, or thing lawfully done under or by reason of the order or Ordinance disallowed between the date of such order or Ordinance and the signification of disallowance as aforesaid.

Act to be construed with 9 and 10 Vict., c. 103.

VII. And be it enacted that this Act and the first-mentioned Act as altered by this Act shall be read and construed together as one Act.

Commencement of Act.

VIII. And be it enacted that this Act shall take effect within the said Islands at the expiration of ten days from the day of the Proclamation thereof within the same.

Act may be amended, &c.

IX. And be it enacted that this Act may be amended or repealed by any Act to be passed in this session of Parliament.

No. 10.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 54.)

SIR,—

Downing Street, 13th July, 1848.

1. In reference to your Despatch No. 15, of the 16th March last, I have to authorise you to take whatever steps you may deem advisable as to the formation of a new Government in the southern portion of the Middle Island, so as to include the vicinity of the Port of Otago.

2. At the same time, while conveying to you this authority, I wish to direct your notice to two circumstances which were not known to you at the time when you wrote this despatch. The first is the application of the New Zealand Company for an alteration of the line which, as they apprehended, and as the event has since proved, you have made the boundary between the northern and southern Governments, by which New Plymouth is thrown into the former division. The second is the desire which the founders of the New Canterbury Settlement have expressed to have that colony likewise constituted into a separate Government, to which proposition I have not indeed acceded, but have expressed myself not unfavourable, if it can be made to combine with your other arrangements.

3. You have so thoroughly justified the confidence which Her Majesty's Government has reposed in you by the course which you have hitherto pursued in managing the affairs of your Government, that I have no hesitation in leaving you free to act according to your own judgment in this matter, relying on your endeavouring, as far as is in your power, to combine the objects which you have in view with those which I have pointed out; but laying you under no positive injunctions respecting them.

4. It is with great satisfaction that I have received the highly favourable account which this despatch contains of the prospects of the Settlement of Otago and the capabilities of the neighbouring district.

Governor Grey, &c.

I have, &c.,

GREY.

No. 11.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 89.)

SIR,—

Downing Street, 22nd December, 1849.

I have to acknowledge the series of Despatches No. 104, 20th November, 1848; No. 106, 29th November, 1848; No. 4, 2nd February, 1849; No. 5, 6th February, 1849; No. 23, 15th March, 1849; No. 27, 22nd March, 1849; No. 76, 22nd June, 1849; and No. 93, 9th July, 1849; all of them relating to the subject of the establishment of Provincial Legislative Councils, and to that of the proposed introduction at a future time of representative Government in one or both of the provinces into which New Zealand is now divided, and in such others as may hereafter be comprised within its limits.

2. My answer to these despatches has been hitherto postponed because, being made aware by your despatch of the 29th November, 1848, that the Ordinance of the 18th November, 1848, for the establishment of Provincial Legislative Councils was already in operation for the Province of New Munster, I considered it most advisable to wait for further accounts of the manner in which it had been received, and of the general state of the colony, before submitting it to the Queen for confirmation. I have now to inform you that Her Majesty has been pleased to confirm and allow this Ordinance. You will communicate Her Majesty's decision to the inhabitants of the colony under your Government by a Proclamation, to be published in the usual and most authentic manner.

3. I likewise concur entirely in your views and proposals respecting the future introduction of representative institutions, by the creation of legislative bodies such as you have described, exercising the same functions respectively as the General and Provincial Councils now constituted by you.

4. But, at the same time, I do not think it at all advisable that Parliament should interfere (in the manner proposed in the resolution of the Council of New Munster, and in your despatch of 2nd February, 1849) by passing at present any new Act for the purpose of giving effect to these views; for I do not perceive that you propose that any change in the existing form of Government (beyond such changes as you are empowered to make with the advice of your Legislative Council, by the Act of 11 and 12 Vict., c. 5) should actually come into operation before the expiration of the five years for which the Constitution of the Island is suspended. This being the case, I consider it to be manifestly inexpedient that Parliament should now pass an Act in order to make provision for a time as yet so far distant, when it is quite possible that in the interval experience may point out some advisable changes in the details, if not in the general features, of such a measure. Nor can it be necessary to introduce such a Bill into Parliament for the mere purpose of affording to the colonists a guarantee that their enjoyment of representative institutions shall not be unnecessarily delayed, since by the Acts now in force the suspension of those institutions can last only for the five years above mentioned, at the end of which time they will of themselves come into operation, and it is certain that nothing but a sense of obvious necessity would induce Parliament to continue their suspension.

5. With respect to the postponement for the present of the introduction of those institutions, I entirely concur in the reasons which you have assigned for it in your recent despatches, particularly

that of the 22nd March, 1849, confirmed as its representations are by the fuller description of the state of society and progress of the colony contained in your despatch of the 9th July, 1849, transmitting the Blue Book. You have advanced reasons apparently conclusive against immediately discontinuing the whole of the pecuniary assistance afforded by this country towards the civil expenditure of the colony, or reducing at once the military assistance now afforded it to an amount more nearly proportioned to the force maintained in other colonies of similar European population. But the same reasons apply with equal force against the immediate grant of a representative Government; since whenever this is given it must be considered as its indispensable accompaniment that the Mother-country should soon be relieved from all charge on account of the civil administration of the colony, as was pointed out in my despatch of the 1st of February, 1847, and should also be relieved from a very large portion of the burden of its military protection.

6 With respect to the Civil List, I have to call your attention to the legal authority under which it is reserved, in order that the provisions made by Parliament respecting it may be duly complied with. The Act of 1846 (9 and 10 Vict., c. 103, sec. 12) empowers the Queen to appropriate by Letters Patent a civil list not exceeding £6,000 per annum for each province. The Letters Patent issued under that Act accordingly reserve £6,000 per annum for each province. The Instructions provide that the Civil List so appropriated shall be applied "as the Lords of the Treasury shall direct."

7. It is obvious that this provision will only become of real importance when a popular Legislature shall be created, to which the power of controlling the whole public expenditure, except that portion reserved as a civil list, will be intrusted. In the meantime, while the whole colonial revenue is appropriated by yourself, with the aid of a Legislature nominated by the Crown and acting under the directions of Her Majesty's Government, with respect to the salaries to be assigned to the various public servants in the colony, it is practically immaterial which of these salaries are nominally charged upon the Civil List under the sanction of the Lords Commissioners of the Treasury. But while this matter is of little or no practical consequence, it is not the less necessary to avoid even any technical departure from the rules laid down by Parliament. Now the Act 11 Vict., c. 5, which suspends many other provisions of the Act and Letters Patent of 1846, does not suspend those relating to the Civil List. It appears, therefore, that they are still in force, and that they are not alterable except in the manner provided by that Act—namely, by the enactment of an Assembly framed under the Act of 1846. But as no such Assembly has been constituted, nor can be constituted while the powers given by the Act remain suspended, it would seem that the present temporary Legislatures possess no power to alter them.

8. On the other hand, the Ordinance of the 18th November, 1848, appears to assume that the existing temporary Legislature has power to provide a civil list (sections 23 and 24). As, however, it has, in point of fact, only repeated the provisions already in force, and as these sections of the Ordinance may have been framed under a different view of the law from that which I have above suggested, I have not thought it necessary to delay the confirmation of the Ordinance on account of them. It is sufficient for me to have directed your attention to the circumstance. If the above view be correct, any alteration in the amount of the Civil Lists during the suspension of the Constitution can only be effected by Parliament or through an amendment of the Letters Patent by the Queen.

9. But you will observe that, in any view, the "directions and appointments" of the Lords of the Treasury are necessary in order to legalise the appropriation of the Civil List. As no estimates of this part of the expenditure, distinct from the remainder of it, have hitherto reached me, I wish you to transmit them at your earliest convenience with a view to procuring the sanction of their Lordships to the appropriation thus authorised by yourself, which, under the circumstances, will satisfy substantially the words of Chap. XI. of the Instructions.

10. On the general question of the Civil List my opinion is that a representative Legislature, when it comes into operation, ought to be as little fettered as possible by Parliamentary enactment in making such charges as may from time to time be required in the appropriation of the revenue.

11. At the same time I consider it to be indispensable that permanent provision should be made for the maintenance of the various establishments which have been created for the benefit of the Natives. The fact that, while the Natives are large contributors to the revenue, they must for some time have comparatively little influence in a representative Legislature, affords, as you have observed, a conclusive reason for requiring that the discontinuance of an expenditure in which they are vitally interested, without the consent of the Crown, shall be effectually guarded against. With this view I am of opinion that the existing local Legislature should carefully consider what amount of permanent expenditure is required for the establishments in question and for other objects connected with the interests of the Natives, and should then pass Ordinances by which the amount of this expenditure should be charged upon the revenue of the colony in the same manner in which in this country various expenses on account of the civil Government, which it is considered inconvenient to submit to annual discussion, have been charged by Parliament on the Consolidated Fund.

12. Under the provisions of the Act of Parliament now in force, the existing Legislature of New Zealand, although maintained only for a period, has full power to pass any Ordinances that may appear necessary for the general interests of the community.

13. These Ordinances will continue in force when the authority of the body by which they have been passed shall cease to be available for further legislation; and though they will, of course, be subject to alteration by the new Legislature which will hereafter be created, no such alteration can take effect without the consent of the Governor as the representative of the Crown, and would be liable, like all other measures of the local Legislature, to be disallowed by Her Majesty. An enactment, therefore, creating a permanent charge on the revenue for expenditure regarding the Natives would afford them all the security that could be desired.

14. The provisions of section 12 of the Ordinance appear to effect all that is necessary in the way of reserving subjects of general importance to the jurisdiction of the central Legislative Council. There are, however, many other heads on which it should seem very expedient that uniformity of legislation should be maintained in the Islands. Such are, for instance, criminal laws inflicting either

the punishment of death or secondary punishments of serious magnitude; laws regulating the course of inheritance of real or personal property, or the mode of disposing of property by will, and the extent of power exercisable by a testator; laws prescribing rules for the naturalisation of aliens; and perhaps laws regulating the form and effect of deeds and other evidence of contracts.

15. And it is to be observed that, in points of this kind, convenience requires that the law of the different provinces should not only be framed with a view to substantial similarity, but that it should be absolutely identical in language, both because a mere difference in wording will often result in important though unintentional differences of substance, and also in order that decisions of Courts of law given in one province may apply, beyond possibility of doubt, to the law as it stands in others.

16. These considerations, however, I leave to your judgment, without wishing to prescribe to you any particular manner of carrying them into execution. It may be that the power possessed by the Lieutenant-Governors of refusing their assent to any laws infringing this desirable uniformity which might be passed by the Legislatures of the provinces would be sufficient to preserve them from material dissidence on these subjects without the necessity of strictly reserving them for the central Legislature.

17. I concur, further, in the suggestion of your Despatch No. 76, of the 22nd June, 1849, that, as legislation respecting the Native races is not one of the subjects exclusively reserved for the general Legislature by the Ordinance of the 18th November, the Lieutenant-Governors of the provinces and yourself should, for the present, reserve for Her Majesty's assent or disallowance any Ordinance which may be passed amending or repealing any law affecting the interests of the Native race, to which the Royal assent has once been given by the Governor. You will therefore take care that suspending clauses be inserted in all such Ordinances, without which you will understand that it is Her Majesty's pleasure that they should not be assented to on her behalf by the Governor or Lieutenant-Governors of New Zealand. This instruction will, of course, apply to any Ordinance which may be passed relating to expenditure in which the Native race are interested.

18. With respect to the boundaries between the provinces, I understand you to be of opinion (from your despatch of the 6th February, 1849), that there is no substantial objection (representative institutions being for the present postponed) to that proposed in my despatch of the 28th of February, 1848, between New Ulster and New Munster. You are therefore authorised to proclaim it at once.

19. The separation from New Munster of the two other projected provinces, of which Otago and New Canterbury are to form the nuclei respectively, must for the present be postponed until the settlement of the latter is somewhat more advanced and the general convenience can be consulted with more certainty as to its limits.

20. It will also be necessary, before these new provinces are proclaimed, that they should be able to defray the expenses of the establishments which will thus be required without assistance either from the Parliamentary grant or from the revenue of the older provinces. It is impossible, while there is ample room in the old settlements for all the emigrants who can desire to go to New Zealand, that Her Majesty's Government should consent to the indefinite multiplication of new settlements at a distance from those originally formed, except on the condition that those who think proper to form such new settlements will be ready to bear the whole of the charges which are thus rendered necessary for additional Government establishments.

Governor Grey, &c.

I have, &c.,
GREY.

No. 12.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 23.)

SIR,—

Downing Street, 30th April, 1850.

I have to acknowledge the receipt of your Despatch No. 149, of the 22nd October last, respecting the creation of additional provinces in New Zealand, and stating your opinion that, in order to enable you to adopt such a course, it would be necessary to make some alteration, not only in the Royal Instructions, but also in the New Zealand Charter. In reply, I have to observe that your assumption on this point appears to be a correct one, but that I intend to postpone the adoption of any measure for carrying your recommendation into effect until the important suggestions which you made with respect to the earlier introduction of representative institutions into the colony than was at first intended can be fully considered by Her Majesty's Government.

Governor Grey, &c.

I have, &c.,
GREY.

No. 13.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 43.)

SIR,—

Downing Street, 25th July, 1850.

I have received your Despatches No. 120, of the 24th September, 1849; No. 126, of the 25th September, 1849; and No. 8, of the 25th January, 1850, on the subject of a published letter addressed to me by Mr. John Dorset, forwarding certain resolutions proceeding from certain persons styling themselves collectively the Settlers' Constitutional Association. Having considered those representations, together with the explanations by which they have been accompanied, it is only necessary that I should state that I have seen nothing to diminish in the slightest degree the confidence which my experience of your past conduct and the results of your administration, both of your former and your present Government, lead me to repose in you. My confidence in the Lieutenant-Governor of New Munster is equally unaffected by this letter.

Governor Grey, &c.

I have, &c.,
GREY.

No. 14.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 23.)

SIR,—

Downing Street, 19th February, 1851.

In acknowledging your Despatch No. 98, of the 20th September, in which you report the resignation of certain members of the Legislative Council of New Zealand, I will take the opportunity of advertng to your former Despatch No. 161, of the 30th November, 1849, in which you proposed the introduction of representative institutions into New Zealand in the beginning of present year.

2. I have as yet refrained from answering this despatch, not from any reluctance on the part of Her Majesty's Government to entertain the momentous question to which it relates, or from any distrust of your judgment in thus proposing the extension of free institutions at an earlier period than was before contemplated into the community over which you preside, but from a sense of the practical difficulties which oppose the immediate realisation of your views. Fully admitting the principles which you advocate, and also the force of your testimony to the fitness of the community of New Zealand for the proposed change, the manner of affecting it required serious consideration, not only from its own inherent difficulties, but because it could not be done without the authority of Parliament.

3. I therefore postponed my answer until it could be determined whether it was possible to submit any measure on the subject of the Constitution of New Zealand to Parliament during the present session. I must now inform you that, upon a full review of the various subjects which must necessarily be brought before the Legislature in the present session, Her Majesty's Government have come to the conclusion that it probably will not be in their power, without interfering with measures of more pressing urgency, to introduce in this session a Bill for determining the future constitution of the Government of New Zealand; since, from the experience of the discussions on the Bill for extending to the other Australian Colonies the Constitution already established in New South Wales, it is evident that the consideration of such a measure would necessarily occupy a very large portion of the public time.

4. These reasons, in addition to those already stated in my despatch of the 22nd December, 1849, have induced me to consent to the continued postponement of a more comprehensive measure; and I have felt the less difficulty in doing so, inasmuch as the powers with which you are already invested by the Suspending Act of 1848 enable you to introduce the representative principle, of your own authority, into the Legislatures of the provinces into which New Zealand is divided. If you think the time has arrived for the safe exercise of those powers I wish you to use them forthwith; for it would, in my opinion, be attended with much convenience that the Provincial Councils should be reconstituted on this basis, before the constitution of the general Legislature is altered.

5. The best model for these Provincial Councils, which must be regarded as temporary and subordinate institutions, will probably be attained by introducing a number of elective members exceeding the non-elective, but the proportions and the other details I leave to yourself.

6. I agree with you in thinking that hereafter, when the population of the colony shall have increased and the means of communication been improved, many of the subjects which must, for the present, be dealt with by these separate Legislatures, will be brought again with propriety under the control of the general Legislature, the Provincial Councils confining themselves ultimately to the discharge of duties similar to those which in Canada devolves on the District Councils.

7. I approve also of the change which you propose in paragraph 7 of your despatch of the 30th November, 1849, to introduce in the present constitution of the Provincial Councils as to the suspension of their Ordinances by the Governor-in-Chief; but this is a power which, from the nature of the subject, should be very sparingly exercised.

8. On the question of the further subdivision of New Zealand in general, or of New Munster, into provinces, I must necessarily rely in a great measure on your judgment. According to the best opinion which I am able at present to form, it is desirable that such subdivision should take place. The parties who are interested in the Settlement of Canterbury, and I believe also those who are concerned in Otago, are desirous of having those settlements erected into separate provinces; in which case Nelson would remain as now in connection with Wellington. But the decision as to the limits of these provinces I wish to remain with yourself.

9. This opinion, however, is not unconditional. I am not satisfied of the expediency of establishing in these smaller provinces Councils entirely nominated by the Crown, as you appear to suggest in your despatch of the 30th November, 1849. I think, on the contrary, that no new provinces should be constituted, unless the representative element can be introduced into its Councils. But, even with a very small population, this appears to me practicable.

10. In the next place, I agree in your opinion, as expressed in your despatch of the 22nd October, 1849, paragraph 20, that no new province should be constituted unless on the terms of supporting its own peculiar expenses and contributing its fair proportion to those general expenses, whatever they may be, which may be charged on the whole community of New Zealand.

11. In order to carry these views into effect, I have advised Her Majesty to make the necessary change in the Charter of 1846. The Act of 1848 suspending the Constitution, does not suspend that portion of the Act of 1846 which empowers the Queen to divide the Island into provinces or that portion which enables her to delegate to the Governor any portion of the powers which that Act confers upon her. You will therefore be empowered, in general terms, to constitute new provinces; and the Act of 1848 gives you sufficient authority (with the advice of the Legislative Council of New Zealand) to constitute Legislatures for such provinces.

12. To facilitate the same object, the Royal Instructions will also be altered in the manner which you recommend in your despatch of the 22nd October, 1849, as to the constitution of the Executive Council.

13. When the inhabitants of New Zealand are thus invested with the power of managing the affairs of the separate provinces by representative bodies, by which also they will be enabled to express

their wishes and opinions to the general Legislature (which will, no doubt, be much assisted, and in great measure guided by their advice), I trust that no serious inconvenience will result from the postponement for a short time of a change in the constitution of the latter body, by which a representative character will be given to it likewise.

14. With regard to the topics more immediately adverted to in your latest despatch now before me, I think that Dr. Greenwood and Dr. Munro had valid reasons for tendering their resignation, on the ground that the functions of the Legislature had been superseded by the Lieutenant-Governor's taking upon himself to announce that the expenditure of the province would continue beyond the period for which it was sanctioned by the then existing Ordinance. This is a step which I have no doubt the Lieutenant-Governor was induced to take under a mistaken impression of what was necessary for the public service, but of which I am bound to disapprove. If he had mentioned to you, among the subjects for which he proposed to call the Legislature together, that of passing a Supply Ordinance, showing that this had become necessary, you would, no doubt, have sanctioned the assembling of that body instead of recommending its postponement. It was a great inadvertence on his part not to have so mentioned it. But, having omitted to do this, he should either have taken on himself the responsibility of calling the Legislature together for this necessary purpose without your sanction, or he should have postponed all payments not legally authorised until he could obtain authority from you for calling it together and passing the necessary Ordinance. With regard to the resignations of Messrs. Bannatyne, Bell, and Ludlam, I can only say that I certainly never intended my despatch to which they advert to bear the sense which they have put on it, although I regret now to perceive that it was expressed in such a manner as to be susceptible of that interpretation, and I am sorry that this should have occasioned the loss of their services to the public.

Governor Sir George Grey, &c.

I have, &c.,

GREY.

No. 15.

COPY of a DESPATCH from the Right Hon. Earl GREY to Governor GREY.

(No. 39.)

SIR,—

Downing street, 2nd April, 1851.

I have to acknowledge your Despatch No. 123, of the 24th October last, enclosing the draft of a Provincial Councils Bill, and informing me of your intention of submitting it forthwith to the Legislative Council.

2. The general principles of the measure are in full accordance with the instructions and suggestions which I have already given you on this subject.

3. There are, however, two points in which I consider it defective, and which are of sufficient importance to induce me to mention them at once instead of waiting for the arrival of the Ordinance itself. In what I have to say, therefore, I shall assume that the Ordinance has passed, or will pass, in substantial agreement with the draft before me.

4. I do not find that it contains any provision reserving to the local Government the initiation of money votes. I conjecture the omission to have happened in this way: the existing Provincial Council Ordinance (section 16) provides that no law shall be enacted or question debated unless on the proposal of the Governor. It is possible that in omitting this provision as incompatible with the new organisation of the Council, it did not occur to the framers to reserve the control thereby abandoned in the case of money votes.

5. But in whatever way the omission may have occurred, it is very material. It is obvious (as experience in some British colonies has amply proved) that without this power the local Government cannot carry on the affairs of the community with advantage, because it cannot estimate beforehand the means which may be at its disposal, or determine to what services these shall be appropriated. The New South Wales Constitution Act (5 and 6 Vict., c. 76, sec. 34) affords an example of the kind of clause which is required.

6. The second point is, your proposing to vest the power of confirming and disallowing the Ordinances passed by the Provincial Councils in the Governor-in-Chief instead of in Her Majesty.

7. This is an innovation of a serious character, and one which I conceive the Legislative Council of New Zealand would have no authority to make, were it not that the language of the Act which you cite (11 and 12 Vict., c. 5) is such as to be open to the interpretation that this very unusual power is conceded by it to that Legislature.

8. I am not prepared to advise Her Majesty to consent to so material a change in the ordinary form of a colonial constitution. You state, indeed, as your reason, that you wish to follow the analogy of by-laws made by a municipal body, expecting that the powers of these Provincial Councils will be gradually absorbed by the central Legislature. But this is an anticipation of the correctness of which it is impossible to be certain; in the meantime the powers actually confided to these Legislatures, although limited by certain restrictions, are absolute on the unrestricted subjects, and greatly exceed those of an ordinary municipal body. Looking, therefore, not merely at the particular instance, but also at the general rules which those intrusted with the administration of Her Majesty's colonial possessions must bear in mind, I think the recognised principle must be preserved.

9. This would, indeed, have been sufficiently done if clause 22 of the draft Ordinance had stood alone; for it would then have been in the power of the Secretary of State to instruct the Governor-in-Chief in no case to confirm a law passed by a Provincial Council until he had received Her Majesty's authority to do so, leaving the Governor-in-Chief free to disallow, without such authority, any which he might deem objectionable. This would have rendered the deviation from the ordinary method one of form only and not of substance, and I should have regarded it as immaterial.

10. But the power reserved to Her Majesty by that clause seems to be controlled by subsequent clauses (although the effect which would result from this apparent conflict is not clear to me), and especially by clause 14, which renders it imperative on the Governor-in-Chief to declare his disallowance within twelve months, and which must in most cases render intermediate consultation with the Secretary of State impossible.

11. The Ordinance, therefore, requires amendment in these particulars, and as it is convenient that the law for the establishment of Provincial Councils should be contained in a single Ordinance, the best course will be to repeal the present one and re-enact it with the necessary alterations. In the meantime, as Her Majesty cannot be advised to confirm it in its present shape, I shall defer submitting it to the Queen when it arrives.

12. The remaining suggestions of your despatch will be fully borne in mind when the subject of the general institutions of New Zealand comes next under the consideration of Her Majesty's Government.

Governor Sir George Grey, &c.

I have, &c.,
GREY.

No. 16.

COPY of a DESPATCH from Earl GREY to Governor GREY.

(No. 74.)

SIR,—

Downing Street, 19th August, 1851.

I have received your Despatch No. 134, of the 14th December last, forwarding with your remarks a letter from Mr. John Dorset on behalf of the Constitutional Association at Wellington. The correspondence will be useful in furnishing materials for the deliberations which must soon take place on the general subject of the New Zealand Constitution; and with reference to Mr. Dorset's letter it is only necessary that you should inform him that it has been received at this department.

Governor Sir G. Grey.

I have, &c.,
GREY.

No. 17.

COPY of a DESPATCH from Earl GREY to Governor GREY.

(No. 20.)

SIR,—

Downing Street, 11th February, 1852.

I transmit to you copy of a correspondence which has passed between this office and the committee of the Otago Association on the subject of the economical management of the affairs of the settlement. I have no doubt you are aware of the importance of keeping the expenditure of this small outlying settlement on as economical a footing as can possibly be managed consistently with the public service; and, as far as I have means to form a judgment, I approve of the views entertained by the committee.

Governor Sir G. Grey.

I have, &c.,
GREY.

Enclosure 1 in No. 17.

Mr. J. McGLASHAN to the Right Hon. Earl GREY.

MY LORD,—

Otago Office, Edinburgh, 9th January, 1852.

I am directed by the committee of the Otago Association and do myself the honour to transmit to your Lordship a copy of a letter they have addressed to Captain Cargill in reference to the proceedings of a public meeting at Dunedin respecting Mr. Valpy's nomination as a member of the Legislative Council of New Zealand, and also to enclose copies of the three newspapers therein referred to.

I have, &c.,
J. McGLASHAN.

Sub-Enclosure 1 to Enclosure 1 in No. 17.

Mr. J. McGLASHAN to Mr. W. CARGILL.

SIR,—

Otago Office, Edinburgh, 6th January, 1852.

I am directed to inform you that the committee of the Otago Association have had under their consideration the resolutions of the public meeting held at Dunedin upon the 13th May last (over which you presided), relative to the Governor's nomination of W. H. Valpy, Esq., to be a member of the Legislative Council of New Zealand, and also the correspondence that appears to have arisen out of the proceedings of that meeting, all as published in the *Otago Witness* of the 24th May and the 7th and 21st June, 1851. They have also had before them the copy transmitted by you of your letter dated the 14th May, 1851, to the Governor-in-Chief, in which you explained the circumstances under which you had consented to preside over said meeting, and requested to be exonerated from discourtesy towards him in taking the chair on that occasion, and of His Excellency's answer, to the effect that he saw no reason to doubt you had exercised your discretion wisely upon that point, and that he complied with your request.

The committee regret that circumstances should have occurred to give rise to discussions that had assumed somewhat of a personal character; and therefore, at the distance of time from the date of those discussions, and when you will receive this despatch, they would not have judged it expedient to take notice of them but for the opportunity thereby afforded of tendering some suggestions as to the course they think it may be beneficial to the settlers to pursue for obtaining at the earliest period civil institutions adapted to their habits and condition. They are of opinion that, on the first occasion on which the Governor had invited a member of the Otago community to take a seat in the Legislative Council, it was not unnatural that the inhabitants of Otago should meet to express their deliberate sentiments regarding the constitution of that Assembly, and the fitness of the nominee to represent their wants and wishes in it, especially in reference to the important measure that was expected to be brought before it. They also think that, considering the peculiar relation in which you stand to the Otago community as a chief leader in the formation of the settlement and as the representative of the Association, there was great propriety in those who were instrumental in calling that meeting inviting you to preside over it, and, under the circumstances, in your so doing. They do not mean and are not entitled to review the resolutions of that meeting; but they must remark that it appears to them the

fourth resolution is inaccurate in point of fact if it be thereby meant that the Governor is able to confer representative institutions or enact laws without the advice of the Legislative Council, the very reverse being the case. (See 11 and 12 Vict., c. 5.) If, therefore, there had been no personal objections to the nominee it would not have been advisable, the committee think, to go so far as to request him not to accept the Governor's nomination.

With this exception the committee think the resolutions were, in the main, called for by the circumstances in which the settlers found themselves placed. It was necessary for them not so much to declare their preference of representative institutions as to avoid the appearance of indifference to them, an imputation to which they would have exposed themselves by silent acquiescence when, for the first time, a nominee Legislative Councillor was selected from among them, which nominee and *quasi*-representative was avowedly unfriendly to the principle of popular election.

The community of Otago, however, having then vindicated that principle, and unequivocally expressed their opinion as to the kind of Constitution they regard as suited to them and as their inalienable right, and Her Majesty's Government having resolved on establishing Provincial Councils, to consist chiefly of elective members, the committee would deprecate any further opposition to a nominee taking his seat in the Legislative Council at the present conjuncture, when, if a law shall not have already been passed conferring powers of local legislation by representatives, the most important business of the existing Legislative Council will relate to the framing and passing of such a measure, which, be it observed, can be done only by the Imperial Government, or by the Governor, with the advice of his Legislative Council, as at present constituted.

The committee feel persuaded that the people of Otago would reprobate any attempt to increase, and would consider it their duty rather to lighten if they could, the difficulties the Governor has to encounter in the discharge of his arduous and responsible duties. On the other hand it is not unreasonable in them to expect that His Excellency will consult their interests and feelings, and, should he again see meet from among them to select a member of the Legislative Council, will make choice of one who is acquainted with and willing to represent the feelings, habits, and modes of thought of the great bulk of the community, and especially whose sentiments, in a matter so essential to their and their children's happiness as the organising of institutions for self-government, are in harmony with their own. By so doing His Excellency will only act in accordance with what the Imperial Government assented to before the first party of settlers left this country, and has since then recommended. The committee have only further to say that a copy of this despatch has been forwarded to Earl Grey.

I have, &c.,

William Cargill, Esq.

JOHN MCGLASHAN.

Sub-Enclosure 2 to Enclosure 1 in No. 17.

[Extract from *Otago Witness*, dated Dunedin, 24th May, 1851.]

PUBLIC MEETING.

A PUBLIC meeting was held in the schoolroom, Dunedin, on Tuesday evening, the 13th instant, at 6 o'clock p.m., in terms of a requisition signed by forty-six inhabitants of Dunedin.

On the motion of Mr. James Macandrew, Captain Cargill was called to the chair. The following requisition calling the meeting was then read: "A public meeting is hereby requested to assemble in the schoolhouse of Dunedin, on Tuesday evening, the 13th instant, at 6 o'clock p.m., for the purpose of requesting William Henry Valpy, Esq., not to accept his nomination to be member of the Legislative Council of New Zealand; it being inconsistent with the feelings and principles of the Otago settlers, as unanimously expressed in their resolutions at the public meeting of the 3rd of December last, to have anything to do with an exclusively nominee Council, or that they should have the *remotest appearance* of being represented without their *actually* being so." [Here follow the signatures.]

The Chairman begged to state at the outset his conviction that every one present would concur with him in the expression of the highest respect and esteem for the gentleman referred to in the requisition, and that there was not a man in the colony who would not delight in showing honour to Mr. Valpy. (Applause.) The Chairman then stated: It was not my intention to have taken any part whatever in the present meeting, but about half an hour since a letter was put into my hands, which has overruled every objection and compelled me, under a sense of duty, to yield to its demand. He then read the following letter: "To Captain Cargill. Sir,—With reference to the meeting to be held this evening in the schoolhouse, we, the undersigned, considering that the subject thereof is one which deeply affects the interests of the colony, beg respectfully to request that you, as leader of the settlers and founder of the settlement, and as representing the Otago Association, will occupy the chair at said meeting." [Here follow nineteen signatures.] Under all the circumstances in which I am placed I shall abstain from any remark or explanation whatever on the subject to be introduced. I am here for the sole purpose of maintaining regularity and securing a full and candid hearing for any man who may wish to address you, and in which I feel confident the chair will be duly supported; and, further, that you will come to a dispassionate and rational conclusion upon the subjects to be proposed. From the paper put into my hands, I beg to call upon Mr. Napier.

Mr. Napier said: I think it will be almost unnecessary for me to say a word on this subject. It is one which speaks for itself. You have all no doubt a clear recollection of the meeting which took place on the 3rd December, 1850, and the resolutions which were then so unanimously passed. Allow me to say that I think we should prove ourselves guilty of a great piece of inconsistency were we, after such meeting, to sanction or countenance in any way the adoption of a system so diametrically opposed to the nature of those resolutions as that of nominee representation; and I would fain hope that they who expressed their opinions so decidedly on that occasion will do so on this. The question about to be discussed—and fairly, I hope—is one, you will all agree, of vital importance to this settlement. It is a subject which should urge upon every thinking individual the necessity of looking closely into, examining and judging for himself, and of coming boldly forward unbiassed in any way and uninfluenced by any circumstance or position of whatever kind, and expressing those sentiments and feelings which, after a calm and deliberate consideration of the subject, most naturally suggest them-

selves to his mind. The present is an eventful era in the history of this still infant settlement, and I trust it may prove a bright, a glorious one. However widely different the views on the subject of New Zealand government, and whatever the various opinions on this all-important point may be, I hope the course to be followed, the system fixed upon, will be such as will insure the happiness and prosperity not only of this particular settlement, but of New Zealand at large. Let me urge upon you, therefore, not to allow any personal motives to interfere with the duty which every settler in the place owes to the other in thoroughly investigating a subject which so nearly concerns us all; and, although at the time of the last meeting nothing had occurred which might have prevented some from expressing themselves as they did on that occasion, I trust our present position in reference to one who cannot but demand our admiration and esteem will not prevent us from speaking our minds and judging impartially betwixt those two systems by which we must either stand or fall. He then moved: "That the colonists of Otago have already recorded their opinion in favour of legislation for their political wants by means of a Council sitting on the spot, at least two-thirds of which should consist of members elected by them."—Seconded by Mr. Bain.

Mr. Robison addressed the meeting to the following effect: He said he had observed that the purpose of the meeting was to request Mr. Valpy not to accept his nomination, as his doing so would be inconsistent with the wishes and feelings of the settlers as expressed at the meeting held on the 3rd December last. He regretted that the conveners of the meeting now assembled had plunged at once into the abstract question of the benefit arising from a representative Government, in which all agreed, instead of considering what was best to be done under the present system. That the Otago settlers at least had received nothing but the firmest support and assistance from the Government, and that it would be bad policy on their part to attempt to thwart it by untimely resistance when Sir George Grey had only a very short time before given them his Provincial Legislative Council Bill to discuss, and, with but very slight modifications, it had received the unanimous approval of the whole body of settlers; that the Council as at present formed was beyond their control and even that of Sir George Grey; that Sir George Grey's reform Constitution could not come into force until sanctioned both by the Home Government and, further, by the nominee Council in New Zealand as at present constituted; and that, therefore, it was desirable the nominee from this place should be present to watch over and be ready to support the interests of the Otago settlers when the Constitution should come to be discussed. In addition to the foregoing, the business to be gone through by the existing Legislative Council was of an unusually important nature, and comprised questions of vital interest to the Otago settlers; that the substitute, in case of Mr. Valpy's refusal, likely to be made at the eleventh hour by the Government, would in all probability be some one at Wellington totally ignorant of and indifferent to their wishes—possibly hostile to the success of this particular settlement from already elsewhere-directed interests; that, whatever violent means they should adopt, they could not for a moment delay the sitting of the Council nor hasten the introduction of representative institutions; their opposition would only tend to embarrass and retard its operations and lessen its usefulness. He then proceeded to state that they would not now be stultifying their decision of the 3rd December last, that meeting only having reference to a prospective Bill not yet in operation, and the existing state of affairs being foreign to the business of that meeting. He concluded by remarking that Mr. Valpy possessed the entire confidence of the settlers, and that Government, from this selection, proved the wisdom of its choice and its desire to accord with the wishes of the inhabitants as far as possible. He proposed the following amendment: "As under the present Constitution of New Zealand the members of the Legislative Council must be nominated by the Governor-in-Chief, it is the opinion of this meeting that it is more to the advantage of this settlement that one of the members of Council be a person deeply interested in its prosperity, and nominated from this settlement, than that the place should be filled by a stranger, who could not have the same interest in watching over any proceedings of the Council affecting the general welfare, which would undoubtedly be done should Mr. Valpy decline to accept his nomination; therefore he be requested to allow nothing to interfere with his being present and taking a part in the proceedings of the Council."—Seconded by Mr. Kettle, who rose amid a volley of hisses and made a few remarks, repeating the arguments of the previous speaker. This was the only expression of personal feeling displayed against any of the speakers throughout the evening.

Mr. Cutten begged to remark that Mr. Robison's arguments did not apply to the subject before the meeting; that the amendment was not an appropriate amendment to Mr. Napier's resolution; for that Mr. Napier's motion merely resolved that a certain act was done on a certain day, whereas the amendment went into detail of the whole subject to be brought before the meeting; and he (Mr. Cutten) suggested that the amendment should be withdrawn and the first resolution allowed to pass unnoticed. The amendment could be moved at a further stage of the proceedings, as a resolution was to be proposed to the meeting to which Mr. Robison's amendment would be a decided negative. This course having been declined, Mr. Cutten proceeded to urge the meeting to reject the amendment, the effect of which, if carried, would be to close the proceedings of the meeting without the matter being fully discussed. That every person would agree with the chairman and Mr. Robison in bearing testimony to the excellent qualities of Mr. Valpy as a colonist; but that was not the question they had come there to discuss; it was not a personal question, but a question of principle—(cheers)—whether they should by their silence or assent allow Mr. Valpy to proceed to Wellington with the appearance of being their representative without his actually being so. (Cheers.)—Mr. Macandrew followed on the same side.

The amendment was then put, and rejected by a very large majority. Several voters for the amendment appearing to doubt the state of the vote, Mr. Macandrew proposed a regular division, which was not accepted. The resolution, being put by show of hands, was announced to be carried by an overwhelming majority. Mr. Lloyd, in the midst of much confusion, proposed (in lieu of a regular division) a separation of the voters. The meeting proceeded to divide in this way—the voters for the resolution passing to the right of the house, their opponents to the left. This being quickly and facetiously done, the two parties stood for some time in ludicrous and mirthful attitudes, cheering and laughing at each other; those on the right being about three hundred in number, those on the left

about fifty. The show of hands being again called, thirty-five hands only were held up against the resolution, which was then carried.

Mr. James Macandrew proposed the next resolution, and expressed his hope that the meeting would consider the subject which had brought them together with the calm deliberation of intelligent men; and that they would show that by governing themselves they were fitted for the self-government which they conceived themselves entitled to. He disclaimed being actuated by any desire to embarrass the Government, or to oppose Mr. Valpy, towards whom he entertained the highest respect. Mr. Valpy, from his position and standing in the settlement, from his extensive employment of labour, and as a highminded and Christian gentleman, was entitled to the regard of every one present; but he (Mr. Macandrew) did entreat that the meeting would not allow any feelings of respect towards an individual, however worthy, or any feelings of delicacy towards the Government, to deter them from asserting a great principle, and vindicating their rights as free men, men born in a free country, men who had left the land of their fathers in the full confidence and with every assurance that they were to live under and enjoy the privileges of the representative and responsible Government for which their forefathers had so nobly struggled. If asked to choose a representative for the Legislative Council, Mr. Valpy would be the man for whom he would vote, that is, after having ascertained his opinion on certain very important points; but he could not for a moment think of standing silently by and seeing Mr. Valpy or anybody else going to Wellington in the character of his representative when he, the represented, had no say in the matter. Trusting that the meeting would take the same view of the subject, Mr. Macandrew concluded by proposing the resolution which had been put into his hands: "That it is essential that there should be no pretence for supposing that those political wants can be represented in a Council sitting at Wellington, composed entirely of official and nominee members, by any person whom the Governor-in-Chief may select without consulting the colonists."

Mr. William Stevenson, in seconding Mr. Macandrew's motion, briefly stated his concurrence in the observations which he had made. He had no objection to Mr. Valpy's nomination as far as his personal feelings were concerned, but he looked upon the subject as a matter of principle.

The resolution was put from the chair and carried by a large majority.

Mr. E. J. Wakefield: Mr. Chairman and gentlemen, it is quite necessary that I should give my reasons for venturing to address the inhabitants of the Otago Settlement, in which I am not a resident myself. In the first place a resolution has been put into my hands, and I have been requested to support its substance by some of the inhabitants themselves whom I consider entitled to some consideration on account of their station and influence in the place. Secondly, that part of the subject now under discussion which is contained in this resolution applies to the other settlements as well as to this one, and relates to a matter of the strongest interest to every New Zealand colonist; and I hardly consider any person to be a good colonist who does not form a decided opinion one way or the other, and maintain it publicly, on subjects of vital importance to the whole colony. For my part it is not with any wish to boast that I tell you it is now twelve years since I first took a part in the colonisation of New Zealand; that I have had some share in the founding of every settlement within this province; that I have during the whole of that time had scarcely any other subject than New Zealand earnestly at heart, and that I hope some day to lay my bones in some part of the country. (Cheers.) A gentleman residing here has been summoned to take a part in the deliberations of the General Legislative Council which is to make laws for the whole of New Zealand. The same process as this is probably going on in the other settlements; they are expressing their opinion as to how far nominees can represent them. The opinion of this settlement will ere long be compared with those of the others. It behoves you to express it one way or the other decidedly enough not to be mistaken. (Cheers.) I will read the resolution which has been put into my hands: "That the Governor-in-Chief is able to enact laws without supporting them by the mockery of representatives from the different settlements; and that His Excellency's legislation will be more effective and worthy of respect if acknowledged to be, as it actually is, his own work, than if put forth as the joint work of himself and pretended representatives of the colonists. That the nominees of the General Legislative Council of New Zealand have no opportunity of consulting the colonists as to whether they can fully and conscientiously represent the requirements of those colonists in that Council, and that they are therefore placed in a false position by the acceptance of such an office." I must strongly disclaim any intention of disrespect to His Excellency the Governor-in-Chief or to any other officer of that Queen for whom, whatever may be our different opinions as to the exact form of Government best suited for us, I am sure that we have all preserved the most fervent loyalty and attachment. (Loud cheers.) I must also disclaim any intention of showing the slightest disrespect to Mr. Valpy. It is hardly necessary for me to dwell on that gentleman's excellent qualities. I can only say, although I have not enjoyed so many or so good opportunities as many of you of becoming acquainted with him, that I agree to the utmost extent with everything that has been said in his favour by former speakers, and that no one can respect and esteem him more than myself. (Loud cheers.) I am as ready as any one to allow that Sir George Grey has done a good deal for New Zealand. He is exceedingly prompt in administrative details, and he is rapid to meet an emergency, even though he may not always do so in a manner most satisfactory to the majority of the colonists. (Cheers and murmurs.) Add to this, His Excellency possesses great personal amiability of character and a most winning manner. (Cheers and laughter.) And I would also point out that Mr. Valpy has one especial claim to your gratitude and respect in his undeviating allegiance to the "class" principle of the settlement. He has at least never in the slightest degree opposed it. (Cheers.) But all this is not the question. My opinion would be the same if His Excellency were the most perfect Governor that ever sailed from England in a frigate, and if Mr. Valpy had already been tried and found to be a most perfect representative. My opinion would be no stronger than it is if His Excellency were the most foolish and tyrannical Governor that ever was sent to torment colonists, and if Mr. Valpy had proved to be entirely unfit to be your own free choice. It is in fact not a personal question at all, and the characters of Sir George Grey and Mr. Valpy have nothing to do

with it. But the real question is this: Men who have been born and bred under Anglo-Saxon institutions are particularly attached to one thing—namely, the making of laws by the real representatives of those who pay the taxes. You yourselves are attached to that principle; you have not been long enough away from the Old Country to forget your love for it. Moreover, those of you at least who are members of the congregation of the Free Church are trained to similar institutions in your present church discipline. You have there a very complete and efficient system of local self-government, and it is found to work admirably. (Murmurs.) You have recently elected twenty-two office-bearers with perfect harmony and quiet; so quietly indeed that strangers would hardly know that such an election had taken place. I say, then, you must be attached to these representative institutions, and just in proportion to the attachment which men bear them do they object to anything like a mockery of representation. For my part I confess that I share in the firmest attachment to the reality, and also agree in the strongest objections to the mockery. I therefore call upon all who have preserved their attachment to those revered and loved institutions of the land of their fathers to express that attachment now. (Cheers.) If you can patiently bear with me I will try and show briefly that not only this Council, but all which like it consist of only officials and nominees, are a mere mockery of representative law-making. In the first place nominees cannot consult the colonists, and therefore cannot represent their opinions. How will Mr. Valpy, if he goes to Wellington to-morrow, know what are your feelings on the matters he is to help in discussing? I will tell you whose opinions the nominees represent—those of His Excellency, who selects them. Secondly, they have no power to carry measures, or to prevent the carrying of measures to which they may object. Supposing Mr. Valpy to be thoroughly able and willing to represent your opinions he would be powerless to obtain effect for them. The measures are proposed without time to consider them. Even those mentioned by Mr. Robison as having been published in the *Gazette* have only been known here at all within the last week or two by those who have access to the *Government Gazette*; and these are only the measures which Sir George Grey chooses to publish beforehand. There may be many others of even greater importance. There is sure to be one—a money Bill; a law to enable the taxes to be collected. And that is in fact the principal object of this meeting of the Council. The Provincial Council of New Munster can no longer be worked: the Governor's watch will not go. (Cheers.) It was necessary that a certain number of non-official members, or nominees, should sit in that Council in order to make its acts legal. But, with the exception of one member on his way to England, they all, for various reasons, resigned. No others could be found. The money Bills passed by them have nearly, I believe, expired, and it became absolutely necessary to pass new ones in some way: that is why the General Legislative Council of New Zealand, which used to sit at Auckland, has been summoned now to sit at Wellington, and make laws for the making of which the former machinery was gone. Now, this Council consists of four Government officers—namely, the Governor-in-Chief, the Colonial Secretary, the Attorney-General, and the Colonial Treasurer of New Zealand;—and of the three senior Magistrates on any general Commission of the Peace—that is, the three senior Magistrates on either the Commission of this province or that of the northern province. After them the Governor-in-Chief can name any one he likes. But there was some years ago a curious way of working the list of Magistrates,—taking them from the top and putting them at the bottom, for the Governor can of course take any name off the Commission. In this case, I do not know whether Mr. Valpy is summoned as one of the senior Magistrates or as one of those whom His Excellency likes afterwards. It is at any rate certain that Mr. Valpy is not the senior Magistrate in this settlement; for the first four appointed were Captain Cargill, Mr. Lee, Mr. Kettle, and Mr. Garrick. It is possible certainly that some of the Magistrates have refused; that is not an uncommon case; and these gentlemen are not bound to tell us whether they have been asked, or what is their answer. So it is just possible that Mr. Valpy is one of the senior Magistrates who have not refused the honour. (Cheers.) I have said that all the nominees in the defunct Provincial Council resigned their seats; some did so because the Council had not assembled at the right time and they had not been told why. (Laughter.) But three of them resigned in a body when I was at Wellington in August last because they thought themselves degraded by a rap on the knuckles from Lord Grey. He wrote as follows to the Governor-in-Chief about the Civil List. I read from the *Government Gazette* of 5th August, 1850: "The Instructions provide that the Civil List so appropriated shall be applied 'as the Lords of the Treasury shall direct.' It is obvious that this provision will only become of real importance when a popular Legislature shall be created to which the power of controlling the whole public expenditure, except that portion reserved as a civil list, will be intrusted. In the meantime, while the whole colonial revenue is appropriated by yourself, with the aid of a Legislature nominated by the Crown and acting under the directions of Her Majesty's Government, with respect to the salaries to be assigned to the various public servants in the colony, it is practically immaterial which of these salaries are nominally charges upon the Civil List under the Lords Commissioners of the Treasury." The fact is, after all, this was no rap on the knuckles, but it was honestly showing the nominees their true position. The settlers had often told them the same thing, but Lord Grey was the first official that told them without concealment that they were powerless. (Cheers.) There will be very likely no members in this Council representing the other settlements, for a great number of colonists there, including most of those distinguished by talents, property, and independence, have repeatedly refused the honour of a nomineeship. But, as the Governor-in-Chief must obtain his complement somewhere, it is exceedingly probable that there may be some members in it not entirely actuated by public spirit. Thus the representative of Otago, even if he be the best representative the people could obtain and well acquainted with all their wants, will be in a minority. But whether fit or not he is sure to be put forth as your real representative. (A Voice: "So he is.") I can only say that Mr. Valpy has not yet been elected by you, and therefore can hardly be called your representative. (Cheers.) And then it will be said that all he does and all he says is by the wish of the Otago colonists; and if, whether from ignorance of your wants—for he has had no opportunity of ascertaining them—or from a conscientious difference of opinion—since it is quite possible that his opinions and yours may be utterly at

variance on some important subjects,—if, I say, on either of these accounts he does support something quite against your will, what can you say on his return, when the mischief, if you think it so, shall have been done? He is not responsible to you, but to the Governor who appoints and who can dismiss him. (Cheers.) He may very fairly say to you, “Gentlemen, I did not ask for your opinions: I was not bound to support them.” (Cheers.) But at any rate, depend upon it His Excellency will pass what laws he likes through the Council, whether Mr. Valpy likes it or not; whether Mr. Valpy in supporting your interests opposes the Governor or sacrifices your interests in supporting him. (Murmurs and cheers.) I do not mean to say that Mr. Valpy will take either of these courses: he may sit still and do nothing. (Murmurs and laughter.) He may find himself in a very perplexing situation in the Council. Some measure may be proposed in regard to which he feels that he is ignorant of the opinions of the Otago colonists, and in such a case I maintain that a conscientious man would sit still and do nothing. (Cheers.) The Governor will then, I say, at any rate pass what laws he likes, and you must obey them; and you will do so, whatever they may be, because, notwithstanding your opinion that you ought, as at Home, to have a voice in making your own laws, you are still of that loyal and law-respecting race which has extended round the world those peculiar and admirable qualities. (Cheers.) In the same way, if the laws passed be satisfactory, you will hardly have Mr. Valpy to thank; your thanks will be due to Sir George Grey as before, who will profess to consult the so-called representative of Otago, and then do just as he would if there were none in the Council. (Cheers, mixed with disapprobation.) I would again draw your attention to what is now going on in the other settlements. At Nelson the inhabitants, after long consideration, held a numerous assembly, which lasted for thirteen hours, during the whole of which time they calmly, carefully, and deliberately discussed the laws under which they wished to live. At Wellington the same kind of thing occurred; and at both those places an elaborate report was drawn up of the system of local self-government desired by the great majority of the colonists. At Canterbury the newly-arrived colonists have hardly got roofs over their heads, but depend upon it they will lose no time in considering those dear rights and liberties which they did not wish to leave behind them. I would point out to you how earnestly the Wellington and Nelson people have considered the subject. At Nelson, during the thirteen hours, scarcely an angry word or noisy interruption was intruded; they did not, in disputing over so vital a matter, excite laughter by the schoolboys. (Cheers.) And you, too, when you had out the short laugh which these useless ebullitions provoke, will do like your fellow-colonists: you will calmly sit down and deliberate upon the kind of Constitution under which you desire yourselves, and your children, and your grandchildren to live. (Loud cheers.) And do not fear but that your wishes will in the end prevail. A powerful association of members of Parliament and others—the Colonial Reform Society—is daily receiving important accessions to its numbers and energetically fighting your battle at Home. (Cheers.) At this very time the principle to which they have pledged themselves is being supported by them in Parliament. That principle is that colonists have the same right as those who remain at Home to manage their own local affairs themselves, and as far as possible in their own way. (Loud cheers.) I call upon you to respond to their efforts. I appeal to you not to countenance a great “sham.” Let the Governor make laws and let us obey them; but let it be well understood that they are made by His Excellency, and not by any persons who can fairly be called the representatives of the voice of the colonists. (Loud cheers, mingled with some disapprobation.)—Seconded by Captain Blackie.

Resolution put and carried, the minority decreasing at each resolution.

Mr. Cutten, being called upon by the Chair, said: In rising to propose the resolution in my hands, I need hardly say anything in favour of Mr. Valpy personally, to whose excellent qualities every speaker has borne testimony; and I doubt not he would have been called on as our representative had we had the power of electing. In calling this meeting, therefore, we are only doing justice to that gentleman in letting him know what are the wishes of the community, if, under existing circumstances, he should accept a seat in the Legislative Council as the Governor's nominee. From his high station amongst us he would have the appearance of being our representative without actually being so. The idea that we are obstructing the Governor by inducing Mr. Valpy not to accept his seat in the Council is erroneous. The Governor can carry any measure in defiance of his opinions if he does go; if he does not, it will make no difference: Sir George Grey can nominate any person he pleases who would suit his purpose as well, and which would have the advantage of not giving us the appearance of being represented. Now, gentlemen, were Mr. Valpy to proceed to the Council without our expressing our opinions we should allow him to fall into a false position, his attendance being useless; and, although Mr. Valpy may have possessed the entire confidence of the settlers hitherto, should he accept his nomination contrary to their wishes he might find on his return that he no longer possessed their confidence. As I said before, I need not enlarge on the good he has done, but will conclude by reading the motion placed in my hands: “That the colonists of Otago entertain a high opinion of the integrity, benevolence, and zeal for local interests evinced by William Henry Valpy, Esq., and also great respect for the manner in which he has discharged the duties devolving upon him in consequence of his social station and large property in the settlement; they would therefore earnestly entreat that gentleman not to accept the false position which he will fall into if, as a mere nominee of the Governor-in-Chief, he should be put forth as the representative of the Otago colonists in the Legislative Council of New Zealand.”—Seconded by Mr. Healey.

Mr. Lloyd rose and moved the following amendment [we were unable to hear his remarks], which was seconded by Mr. Barr: “That this meeting desires to express its perfect confidence in Mr. Valpy as a member of Council, feeling assured that he will be guided and influenced by principles of honour and integrity and that any measure he may sanction will be for the benefit of the community; and that he be requested to allow nothing to interfere with his accepting the office.”

The Chairman remarked that this amendment was nearly the same as Mr. Robison's, which had been rejected; he would, however, if required, put it to the meeting. He then read the two amendments together. Mr. Lloyd made some angry remarks, which were inaudible. The amendment was put and lost.

Mr. Langlands said, before the resolution was put to the meeting he wished to make a few

observations. He meant to give his support to that resolution, which, without an explanation, would doubtless be considered an inconsistency. Yesterday a paper was sent round to the inhabitants for signature, purporting to be in favour of Mr. Valpy's representing this settlement in the Legislative Council of New Zealand. He (Mr. Langlands) had but lately come hither, and was unacquainted with the nature of the Government arrangements for the colony, but deemed it a full and just system of representation; and, besides, actuated by feelings of the highest respect for Mr. Valpy, and believing him qualified for the position of representative for Otago, he had signed that document. Subsequent inquiries, however, had convinced him that, according to the present system, it was impossible there could be any proper representation made of us in the Legislative Council, and he therefore would support the resolution, notwithstanding having attached his name to that paper. Further he (Mr. Langlands) was confident that there were not a few who, having signed that document in similar circumstances with himself, were equally desirous of withdrawing from it, and thought, with a previous speaker, that the chairman ought to afford them an opportunity of expressing themselves.

Much noise and confusion followed Mr. Langland's remarks. The resolution was put and carried by a large majority. Thanks were voted to the chairman, and the meeting separated.

Enclosure 2 in No. 17.

Mr. F. PEEL, M.P., to Mr. J. McGLASHAN.

SIR,—

Downing Street, 21st January, 1852.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 9th instant, and to request that you will express to the committee of the Otago Association his Lordship's thanks for the copy which it enclosed, of the letter which they had addressed to Captain Cargill relative to the nomination of Mr. Valpy as a member of the Legislative Council of New Zealand.

J. McGlashan, Esq.

I have, &c.,
F. PEEL.

Enclosure 3 in No. 17.

Mr. J. McGLASHAN to Earl GREY.

MY LORD,—

Otago Office, Edinburgh, 24th January, 1852.

The committee of the Otago Association understand that there is reason to fear some demur on the part of the local Government to forming Otago into a separate province, with representative institutions, when the Provincial Councils Ordinance passes into a law, on the ground that its revenue is insufficient for the salaries of Government officers. They have received from the settlers a communication relative to means for making roads; and, by various parties, settlers, and intending settlers, entreaties have been made to get the Charter immediately completed. They trust, therefore, to be excused for making the following representation to your Lordship on these several subjects.

2. The revenue of the settlement for the current year, the fourth of its existence, will be, they believe, above £3,500, and there cannot be a doubt of its steadily increasing. Assuming this estimate, the settlers are of opinion (and the committee concur with them) that the revenue is adequate for reasonable salaries to such Government officers as will be required; that even two-thirds of it will be sufficient for the purpose, and that the remaining third may be saved for roads and improvements if due attention to economy and the wants of the settlements be exercised.

3. Were it a necessary consequence of Otago being made a separate province that there must be appointments to every one of the offices usually connected with provincial government, whether there should be duties to perform or not, or however slight the duties, and that salaries must be attached to them similar in amount to those of the like offices in the larger existing provinces, the present revenue would indeed be insufficient.

4. But the settlers cannot see, nor, they are persuaded, does your Lordship, the necessity of there being more appointments or larger salaries than the legitimate object of such appointments absolutely requires.

5. Your Lordship has already intimated that you are "fully impressed with the expediency of adhering to the principle advocated by the settlers that the salaries attached to official appointments in the settlements should be proportioned to the condition and means of the community." And this principle is akin if not identical with the other that the number of appointments and the amount of salaries should not exceed what is necessary for effective service.

6. There is another gratifying decision to which your Lordship has come that is entirely in accordance with the sentiments of the inhabitants of Otago. In your Lordship's despatch to Governor Sir George Grey, of date 19th February, 1851, it is announced as your opinion that the further subdivision of New Munster into provinces is desirable; and it is added, "I am not satisfied of the expediency of establishing in these smaller provinces Councils entirely nominated by the Crown, as you appear to suggest in your despatch of the 30th November, 1849. I think, on the contrary, that no new provinces should be constituted unless the representative element can be introduced into its Councils. But even with a very small population this appears to me practicable."

7. The committee may perhaps be allowed to say that they entirely coincide in that decision, for which they think the people of Otago are under lasting obligations to your Lordship. They are perfectly satisfied that, in as far as Otago is concerned, all that is requisite in order to carry out your Lordship's practical and salutary views is that in the administration of its affairs the strictest economy be observed consistent with effective service, and that the existing arrangements be revised with a view to others being substituted conformable to this requirement.

8. For in the infancy of the settlement two or more offices, not incompatible, may be provisionally concentrated in one person with positive advantage and economy in point of execution and expense; and in a population composed of men of frugal habits, and knit together by reverence for principles and

institutions which they desire to see firmly established, there are individuals possessing the confidence of their fellow settlers who will satisfactorily discharge the duties of office for moderate salaries, and feel honoured in being allowed to show an active and generous regard for the interests of the settlement they have assisted in founding.

9. It would be improper to trouble your Lordship with details fit only for the cognisance of the Governor, in the arrangement under which His Excellency, should he see fit to command it, will receive the zealous co-operation of Captain Cargill, who fully knows the mind of the Association and the settlers, and has himself given great consideration to the subject. But the committee may perhaps be allowed humbly to suggest that during the infancy of the settlement the highest of these salaries, that of the Governor of the province, need not exceed £500 a year; £1,000 should suffice for the salaries of Colonial Secretary and clerks, Judge, and Registrar; the proportion of the Judge's salary borne by Otago, whatever be its amount, and whether his duties be confined to Otago or extended to other provinces as approved by your Lordship, not exceeding £350 or £400 a year. Another £1,000 should be adequate for miscellaneous expenditure, including the Customs, post-office, and police establishments; and the duties of Resident Magistrate and of various other offices should be provisionally discharged by the paid functionaries.

10. These disbursements, assuming the yearly revenue to be £3,500, would leave £1,000 at the disposal of the Provincial Legislative Council for the formation of roads that would open up different parts of the settlement, presently almost inaccessible, and for making other improvements that would render it attractive, accelerate land sales, or be otherwise of public advantage.

11. The want of roads and of funds for making them is a grievance that is pressing hard upon the industry of the settlers, from whom the committee have received an urgent application for some alleviation of it. The evil consists in this: that in no part of the settlement is there any extent of road; the nearest rural districts are inaccessible to carts; a ruinous expenditure of labour and resources is thus incurred, and cultivation is retarded in such a degree that the necessaries of life have not been produced in sufficient quantity for their own wants, though, in more favourable circumstances, there might now have been a surplus for exportation. But the grievance is aggravated by the fact that the revenue is expended in salaries of functionaries who have little to do, and whose salaries ought, they think, to be less, or whose duties ought to be provisionally concentrated in fewer, to the saving of a very considerable portion of the revenue for the amelioration of the condition of the whole community.

12. It is not intended by these remarks to impute blame to the local Government. Distant as the settlement is from the seat of Government, and irregular and uncertain as are the means of communication, intercourse with Government is precarious, and the presence of the Governor is of necessity at long intervals, and of too short duration to enable him personally to make those arrangements that are most suitable to its circumstances. The evil is incident to its distant and isolated situation, without powers to regulate and manage its own affairs, and the practical remedy appears to lie in its immediately obtaining representative institutions and a resident Executive Government.

13. Independently of this measure, however, another is urgent. The committee have to make a strong appeal on behalf of the settlers for pecuniary aid in the formation of a road from Port Chalmers and Dunedin into the Taieri Plain, distant seven miles and upwards from the latter town. To them nothing almost can be more important than the speedy opening-up of the rural districts to facilitate cultivation, and the bringing of produce to market, giving cheaper food to inhabitants, and promoting land sales. But they do not found this appeal on any ground of right, neither do they ask an absolute donation, but merely a loan in advance of land sales and in aid of other funds they may raise among themselves. As your Lordship is aware, the Association is willing that Government be relieved of the obligation to purchase 200 properties at £120 10s. each, in other words to pay £24,100 for land in Otago. This may, justly perhaps, be regarded as more than an equivalent for the boon solicited. But neither do they make their appeal on this ground, which is pleaded only to give point to the argument that, large sums having been expended for roads in the Settlements of Auckland and Wellington, and Canterbury having gotten an advance of £2,500 for a similar purpose without any such ground to plead and with no greater claim than Otago, these facts afford at least some colour of justice to a claim on behalf of Otago. They only ask your Lordship, as a matter of favour, in the exercise of a sound discretion, to authorise advances to be made out of the general funds of the colony in aid of an indispensable object. Nearly £4,000 have been realised by the sale of its lands since the retirement of the New Zealand Company; and a sum equal to this, advanced for roads, would, without a shadow of doubt, be soon repaid, whilst it would essentially contribute to the well-being of the settlement.

14. The committee do therefore most respectfully urge that Otago be erected into a separate province; that in the appointment of the necessary officers and in the fixing of their salaries the strictest economy be practised consistent with effective service; that in these appointments regard be paid to the selection of individuals interested in the prosperity of the settlement and friendly to the principles on which it is founded; that existing appointments, in so far as incompatible with arrangements to be formed on these principles, be recalled; that pecuniary aid, on the security of future land sales, for the formation of roads, be granted to the extent of £4,000, or such other sum as your Lordship may be pleased to authorise; and, lastly, that the Charter in favour of the Association be now completed with all convenient speed, it being found that the delay of it is occasioning discouragement, and seriously retarding the advancement of settlement.

15. Should your Lordship be pleased to give effect to these particulars, the committee can assure your Lordship they will diffuse among the settlers a spirit of contentment and enterprise that cannot fail to be attended with the best results.

The Right Hon. Earl Grey, &c.

I have, &c.,

J. McGLASHAN.

Enclosure 4 in No. 17.

Mr. F. PEEL, M.P., to Mr. J. McGLASHAN.

SIR,—

Downing Street, 11th February, 1852.

I am directed by Earl Grey to acknowledge your letter of the 24th ultimo, and to request that

you will convey to the committee of the Otago Association his Lordship's assurance that their views as to the economy to be observed in the conduct of the affairs of the settlement shall receive careful consideration. He will not fail to give the Governor instructions on this important point, and with this view your letter and this answer will be communicated to him.

2. With reference, however, to the application of the committee for an advance of £4,000 on the security of future land sales for the construction of roads, his Lordship can only express his regret that it is out of his power to accede to it, there being no funds under his control out of which any such advance could be made.

3. The advance of the Canterbury Association, to which the committee refer, was made by the Governor under peculiar circumstances and without communication with the Secretary of State. Those circumstances were, the arrival of the Agent of the Association and a large number of emigrants with exhausted funds; it being well known at the same time that the Association at Home were in possession of sufficient means to repay any such temporary accommodation. Lord Grey did not think it incumbent on him to disapprove what the Governor had thought proper under the exigency of the occasion to do, but instructions were conveyed to him at the same time not to repeat any such advance.

I have, &c.,
F. PEEL.

J. McGlashan, Esq.

Enclosure 5 in No. 17.

Mr. J. MCGLASHAN to Earl GREY.

MY LORD,—

Otago Office, Edinburgh, 19th February, 1852.

The committee of the Otago Association received on the 16th instant letters and newspapers from the settlement to the 13th September last. Their contents induce them to solicit the favour of your Lordship's attention to the following observations respecting the measure for representative institutions which, they understand, is about to be brought before Parliament by Her Majesty's Government:—

2. They feel it to be incumbent on them to represent that the community of Otago is dissatisfied with the measure for local institutions passed by the Legislative Council of New Munster. That dissatisfaction arises chiefly from these causes: (1) That it does not provide for Otago being erected into a province; (2) that it does not give sufficient powers to each of the settlements to legislate in and administer its own affairs; and (3) that it gives to the Governor such an undue power over the local revenue of each settlement as will render nugatory one of the chief benefits for which representative institutions are desirable.

3. With respect to the first of these grounds, the settlers are perhaps unaware that the formation of new provinces must be authorised by the Imperial Government, and that, in the opinion of Governor Sir George Grey, assented to as correct by your Lordship, there is no existing authority to him to erect new provinces, but which your Lordship was in due time to supply.

4. In support of their other objections the settlers urge that there should be conceded to each settlement the fullest powers of regulating and conducting its own local and individual affairs and appropriating its revenue. They think that the Governor's laudable anxiety and ambition to conduct his Government with uninterrupted success have had a tendency to sway him to keep a more tenacious grasp of power and a larger control over the revenue of the settlements than are necessary for the assumed object, or are consistent with the privileges, habits, and sentiments of British subjects. In this matter the Governor and the governed are in truth litigants, and the latter deem the right decision of this point by your Lordship of the utmost importance. The chief object for which they desire representative institutions is to insure economy in the civil expenditure and to render the resources of each settlement available for internal improvements. But they think that, if the Governor is to have the power over the revenue that the recent Ordinance confers, they will have no security against wasteful expenditure, the utility of representative institutions will be defeated, and the concession of them rendered worthless.

5. Your Lordship does not need to be reminded that all these considerations receive tenfold force in the case of the settlers at Otago, from the fact that no advance can be made to them, as your Lordship has intimated, even for a purpose so essential to their well-being as the making of roads, though not one exists, and there are no funds for their construction in consequence of the revenue being appropriated extravagantly for purposes less necessary. But surely, since it is decreed that the settlement must provide for its own wants out of its own resources, it will be fair that it should have full power to regulate the appropriation of those resources; if it must be self-sustaining it will be inconsistent to keep it in leading-strings.

6. Having thus briefly explained the grounds of the settlers' dissatisfaction with the recent Ordinance, the committee respectfully request your Lordship's indulgence while they place the subject in the light in which they are disposed to view it.

7. Each of the settlements of New Zealand may be said with truth to possess an individual life and attributes of its own. Each is severed from the rest by (1) distance; (2) diverse schemes of colonisation; (3) independent interests, exemplified by the right of each to the exclusive appropriation of its own revenue for its benefit, and by other peculiarities. This severalty and independence naturally create a strong desire on the part of each settlement, and, it is submitted, give each an equally strong title to conduct its own affairs, on the proper management of which essentially depend its prosperity and vigour.

8. No doubt these settlements have also a collective life and general interests, and it is thought that there can be no just or satisfactory legislation for them unless the indisputable and important distinction between their individual and collective interests be stedfastly kept in view, and provision made for an adjustment of the revenue for the support of those respective interests corresponding to their relative importance.

9. At this point the questions have arisen whether the individual interest of each settlement should be subordinated to the general interests, or whether there should be an equable adjustment between

both sets of interests, assuming the correlative importance of both. The Ordinance has decided the first of these questions in the affirmative; and not only so, but, in the settlers' apprehension, to an inordinate and injurious degree. But it is manifest that the general interest does not require any provision hurtful to the vitality and vigour of the individual settlements.

10. If these principles be correct, the proposal of the Governor that the General Legislative Council "continually absorb" the powers of the Provincial Legislative Councils seems to be opposed to the principles on which any satisfactory legislation for representative institutions can at present be based. No doubt the time will come when the individual life of each of the settlements shall cease; but before that period the causes that now sever them shall also have ceased. So long, however, as those causes operate, the distinctness of the interest of each community from that of the rest must render the legislation of any general legislative body, as far as it may affect the plan of any particular settlement and its peculiar interests, an unfailing source of jealousy and dissatisfaction.

11. The committee apologise for the freedom of these remarks, but their object, or the spirit in which they are made, your Lordship cannot mistake. There is only another point which at this time they will bring under your Lordship's review. They earnestly entreat your Lordship to reconsider the decision in the despatch to the Governor of the 2nd April, 1851, that the laws enacted by the Provincial Councils be transmitted for Her Majesty's approval or disallowance. They submit that in local matters, a very great proportion of which will be of a kind analogous to those that fall under the cognisance of municipal bodies in this country, the inconvenience of the course your Lordship points out will be extreme, and that any precedent for it should not prevent your Lordship from acting upon those more enlarged and liberal views which characterise your Lordship's measures.

I have, &c.,
J. McGLASHAN.

Enclosure 6 in No. 17.

Mr. H. MERIVALE to Mr. J. McGLASHAN.

SIR,— Downing Street, 25th February, 1852.

I am directed by Earl Grey to acknowledge your letter of the 19th of this month, and to request you will apprise the committee of the Otago Association that, as it reached him on the eve of leaving office, it is not in his power to make any use of the suggestions which it contains for the guidance of the Secretary of State. He cannot, however, dismiss the subject without expressing the satisfaction which it gives him to find that the views of the committee, and of the settlers with whom they are in connection, on the subject of the local government of New Zealand, are so nearly in accordance as they are with those which he has himself been led to form on this very important question.

J. McGlashan, Esq.

I have, &c.,
H. MERIVALE.

Enclosure 7 in No. 17.

Mr. J. McGLASHAN to Mr. HERMAN MERIVALE.

SIR,— Otago Office, Edinburgh, 4th March, 1852.

I have laid your letter of the 25th February before the committee of the Otago Association, and am directed to express their gratification and thanks at being informed that the suggestions in their letter of the 19th of that month to Earl Grey on the subject of the local government of New Zealand were nearly in accordance with the views which his Lordship had been led to form on that important question. It is their anxious hope that, in a matter of such vital interest to the well-being of the settlers, those suggestions may be regarded not less favourably by his Lordship's successor, before whom they request you will have the kindness to bring them in due season.

Herman Merivale, Esq.

I have, &c.,
J. McGLASHAN.

No. 18.

COPY of a DESPATCH from Earl GREY to Governor GREY.

(No. 25.)

SIR,— Downing Street, 23rd February, 1852.

Before I relinquish the seals of this department, I think it right to place on record my views with regard to the future government of New Zealand, by transmitting to you the enclosed draft of a despatch to yourself and of the heads of a Bill to be submitted to Parliament which have been prepared under my directions. These drafts had not yet been finally revised and adopted, partly because I had hoped that I might receive a reply to my despatch of the 2nd April last, before it was absolutely necessary for Her Majesty's Government to come to a decision upon the various important questions which require to be determined respecting the future Government of New Zealand; but the subject has undergone so much consideration that there is little probability that my view could have been altered in any material point by the further information which might have reached me.

Governor Sir G. Grey.

I have, &c.,
GREY.

Enclosure 1 in No. 18.

DRAFT to Sir GEORGE GREY.

SIR,— Downing Street, February, 1852.

I have to acknowledge your Despatch No. 121, of 30th August last, transmitting the Provincial Councils Ordinance in the form in which it passed the Legislative Council, and explaining with great clearness and in much detail your views with respect to the system of government

best adapted to the existing condition of New Zealand. I have to thank you for the valuable information contained in this despatch. It has been of great service in preparing the enclosed heads of a Bill, which it is the intention of Her Majesty's Government to introduce into Parliament in the present session for the purpose of establishing the legislative institutions of New Zealand on a permanent footing. In transmitting to you these heads, it is necessary that I should explain somewhat fully the principles on which the measure is founded, and the reasons for the departure from your own recommendations, which you will observe in some of its provisions.

2. The New Zealand Constitution Act of 1846, together with the Charter and Instructions issued in consequence, so far as related to the establishment of representative institutions, were suspended for five years in 1848 in consequence of the representations made by yourself of the danger of introducing those institutions, in a part at least of the Islands, at that particular conjuncture. By the Act passed, in order to effect that suspension, large powers were vested in yourself and the existing Legislative Council to establish such institutions of a provisional character during the suspension as you might deem fit.

3. These powers you employed in the first place by constituting Provincial Councils on the model of the General Legislative Council. Subsequently, as the increase of the settlement and the quiet and orderly condition of the Native population convinced you that the dangers which you had at first apprehended were in the course of removal, you urged on Her Majesty's Government the expediency of commencing the introduction of the representative principle into the Government of New Zealand before the period allotted for the suspension of the Charter should expire.

4. Her Majesty's Government, in the continued exercise of that confidence in your judgment and knowledge of the peculiar state of society in New Zealand which had originally induced them to accede to your proposal for deferring the grant of representative institutions to the colony, believed that no better course could be taken than that of relying on your opinion on this subject also; and you were therefore instructed to avail yourself of the power Parliament had intrusted to you by taking measures for the establishment of representative Provincial Legislatures. In accordance with these instructions, you have introduced the Provincial Councils Ordinance, which was first submitted to me in draft with your despatch of 24th October, 1850, and which you have now transmitted in the form of a law.

5. I take the opportunity, while thus detailing the history of these transactions, to mention that my despatch of the 2nd April last, acknowledging the receipt of the draft of this Ordinance, does not appear to have reached you before it was passed into law, as certain amendments, which I then pointed out as desirable, have not been inserted in it. I still trust, however, that I may hear from you in reply to that despatch, if not before the Bill which has been prepared must be submitted to Parliament, at all events in time for the consideration during its progress of any remarks which may be suggested to you by my observations on the draft Ordinance.

6. Under these circumstances, if no further steps were taken by Parliament with reference to the New Zealand Constitution, the suspending Act of 1848 would expire on 7th March, 1853. The Provincial Councils Ordinance created under it would therefore also expire, together with the existing Legislative Council; and the Constitution framed in and under the Act of 1846 would *ipso facto* take their place.

7. Her Majesty's Government, however, on a deliberate consideration of the various despatches which you have addressed to me, have come to the conclusion that it would be inexpedient to leave the Act of 1846 to come thus into force, because they are of opinion that the changes which have taken place in the state of affairs in New Zealand, and the additional information which has been obtained since that measure was passed, suggest the propriety of various modifications both in its substance and form, although its essential principles ought, in their judgment, to be preserved.

8. The most important of these principles, and that which in fact formed the foundation of the whole measure, was the creation of coexistent General and Provincial Legislatures. On the question whether this arrangement ought to be adhered to, Her Majesty's Government have not failed to give full consideration to your own views and statements, and to those also which have reached them through you from various bodies of settlers in New Zealand, both for and against the scheme of Provincial Councils. The result of their deliberation is that they concur with you in believing that the natural features of the Island, the distance of the settlements, the severalty of their local interests, however common those interests may be on some subjects, and the consequent difficulty of forming a General Legislature which should suffice to perform all the ordinary functions of legislation, all present arguments confirming the views entertained in 1846 in favour of the creation of local Legislatures.

9. With respect to the number of provinces into which New Zealand should for the present be divided, Her Majesty's Government have seen no reason for dissenting from your proposal; and it is intended to establish five provinces accordingly, making, however, provision for the creation of additional provinces by the authority of the Legislature, if this should hereafter become necessary owing to the formation of new settlements.

10. It is intended that it should be left to yourself to define the limits of these provinces, subject to this general rule—which is not contained in the heads of the Bill, but to be followed by yourself as a guide in the exercise of this power—that they are to extend only over the portions of the Islands occupied by Europeans; reserving, however, a power of gradually extending their boundaries as this may become necessary by the settlement of the country.

11. It appears to Her Majesty's Government that the remaining region, still of comparatively far greater extent, which is occupied by Natives only, or almost entirely, ought, for various reasons, which will more distinctly appear in the course of this despatch, to be left under the control of the General Legislature alone, though hereafter the limits of the territory comprised in provinces will probably require to be from time to time enlarged.

12. With respect to the powers to be intrusted to these Provincial Councils, I am disposed for my own part to believe (notwithstanding the alteration which you state to have taken place in your own views on this point) that in the progress of events, as colonisation extends, and the several settlements

are drawn nearer to each other in boundaries and interests, they will very probably assume more and more of a municipal character, while the functions of the General Legislature will increase. But I do not think it would be advisable to introduce any special provision either to accelerate or retard such a gradual change. Anticipations as to the course which political affairs may hereafter take are everywhere liable to be disturbed by many unforeseen events, and most of all in new and advancing societies. Hence it seems to be the wisest course to rest satisfied with adapting the institutions which are to be established as well as may be practicable to the existing state of things, leaving their future development, and the alterations which a change of circumstances may hereafter require, to be effected by the local authorities thus created.

13. Without seeking, therefore, to determine whether the course of events will lead to an extension or restriction of the powers now about to be conferred on the Provincial Councils, it is proposed for the present to confer upon them a general power of legislation, subject to certain specified exceptions which will be the same, or nearly so, as those established in your Provincial Councils Ordinance. The powers of the General Legislature, on the other hand, it is not intended to limit to any particular subjects. Its enactments alone would thus have the force of law on the subjects reserved to it, and they would also have paramount and superseding force on all those other subjects over which both it and the local Legislatures are meant to have authority. By this arrangement no conflict of powers can arise, since that of the General Legislature will always prevail whenever it may be exerted, and it will be left to experience and to the judgment of the colonists themselves to determine to what extent this power should be used and the action of the subordinate Legislatures consequently restricted.

14. As to the constitution of these Provincial Legislatures, Her Majesty's Government have adopted for the most part the model established by your Ordinance. There is, however, one important exception—namely, the introduction of a proportion of members nominated by the Crown. It has appeared to them that the general objections to the constitution of a single Chamber wholly elective, apply to these Councils, however local in their character. The power of nomination affords the means of introducing at times persons whose services are of great value. Under the Constitution recently established in South Australia a nominated member has recently been elected by the Council to the office of Speaker, a strong proof how highly his services were appreciated by the general body.

15. It has been further thought advisable to extend the duration of the Provincial Councils from two years to four.

16. It has been also thought necessary materially to alter the provisions concerning the reservation of laws for allowance. For reasons already explained to you in my despatch of the 2nd April last, Her Majesty's Government cannot approve of the absolute exercise of that power by the Governor. The laws of the Provincial Councils are not meant to be in the nature of mere by-laws or local regulations. They would be, in the fullest sense of the word, legislative enactments within the limits of the respective provinces; and as such should not be exempted from the general prerogative of the Sovereign. Nor does experience show that any real inconvenience arises from reserving the ultimate power of disallowing colonial laws to the Crown. This power is practically exercised very rarely indeed, and as the laws come into immediate operation when assented to by the Governor the colony has all the benefit of immediate legislation when it is required.

17. Her Majesty's Government are also unable to concur in the proposal (paragraph 63 of your despatch) that the Superintendents of the province should be elective. If so they could hardly be made removable by the Crown, nor could the power of suspending them from office till the pleasure of the Crown should be declared, like all other executive offices, be conferred on the Governor. But it is difficult to understand how it would be possible for the Governor to exercise any effective control by means of officers thus independent of him over the Provincial Executive Governments. It is a fundamental principle of the British Constitution, and one from which I am not aware that any departure has ever taken place (in modern times), that all executive authority, except that which, in the strictest sense of the word, is merely municipal, must emanate from the Crown. Her Majesty's Government are not prepared to recommend to Parliament that a different principle should be adopted in New Zealand.

18. I must add that I think it the more necessary to adhere in this respect to what is the usual practice because it appears to me that your demarcation of the respective powers of the Governor and the Superintendents is far too vague to be introduced into a law; and that it will be far better to leave the extent of authority to be intrusted to these officers to be determined, as in other cases, by their commissions. For this reason it is proposed not to notice them in the Bill, but to vest their intended functions in yourself with a general power of delegation.

19. In declining to adopt your recommendation upon this point it is, however, far from being my intention to express any dissent from your opinion that the local Provincial Governments should be established at as small a cost as possible. On the contrary, on this point your views are entirely in accordance with those of Her Majesty's Government. We think that the persons to be placed at the head of the Executive Government should be chosen from the colonists themselves, and that their salaries should be on a very moderate scale. This being the case, it seems certainly desirable that these officers should have some other title rather than that of Lieutenant-Governor. I see no objection to the title of Superintendent, which you have suggested. It would be also in accordance with your proposal of conferring office on them only for two years, that they should hold this title.

20. Of the General Legislature it is not necessary that I should say much, because the heads of the Bill itself will sufficiently develop the intentions of Her Majesty's Government in proposing them. In its general features it will resemble that which it was intended to establish in 1846, except that it is proposed that the members of the General Assembly should be elected directly by the inhabitants; those of the Council by the Provincial Legislatures, under provisions intended for the purpose of securing to the minority in any Provincial Legislature the benefit of not being wholly excluded from representation in the General Legislature. It has been thought advisable to give the Governor power to appoint the President of the Legislative Council, and to authorise him to make such appointment either out of the body of the Council itself or by adding a distinct member to it.

21. With respect to qualification of electors for the House of Representatives, I have seen no reason to alter the standard adopted by yourself for the Provincial Councils.

22. The clause establishing the qualification for the House of Representatives is, however, so worded as to admit of votes being given by electors residing without the limits of the provinces if within such electoral districts as may be established for elections to the General Legislature. This provision was adopted to meet the possible case, not only of outlying settlers, but of Natives qualified to vote according to property but not residing within any province. Whether such a case is likely to occur or not, I have not materials to judge.

23. But the admission of the Natives to the franchise is, unquestionably, one of the most difficult parts of the scheme; and it is only after the best consideration they can give to what is, at all events, a choice of difficulties, that Her Majesty's Government have resolved not to establish any special Native franchise, but to trust to their advance in civilisation and the acquisition of property to enable them by degrees to take their share in elections along with the inhabitants of European race.

24. In the uncertainty which must necessarily attend an experiment of this kind as to its effects on the Native race, it has been thought also advisable to retain the power which the Act of 1846 gave the Governor of constituting Native districts subject to Native usages, although I have not sufficient information to enable me to judge whether there is any present or probable necessity for the use of that power.

25. To the General Legislature thus constituted ample powers of legislation are given, including those of making the most extensive modifications in the constitution both of itself and of the Provincial Legislatures, provided only that the more important of these changes be not made without an opportunity being first given for their consideration and acceptance by the Crown.

26. The general plan under which the revenue is to be levied and appropriated also nearly resembles that of 1846. Subject to the charges of collection and the reservation for Native purposes, the General Legislature will have complete power over the revenue derivable from any taxes imposed by itself. This appears more essential than it otherwise would have been in consequence of the greater number of provinces into which New Zealand is to be divided; because, owing to this division, there must be many public works of importance which an authority common to all the provinces could alone properly undertake and provide for.

27. For the expenses incurred by the authority of the General Legislature it is proposed to provide by an equal percentage to be deducted from the revenue derived from the Customs and from other duties and taxes imposed by the General Legislature. The residue of the revenue received in each province, after meeting the above charges, will be placed at the disposal of the Provincial Legislature. By this arrangement, as the relative contribution of each province to the general expenditure will be determined by its consumption, it will be as nearly as possible proportioned to its wealth and population, increasing or diminishing from time to time according to the variations which may take place in the comparative means of the different provinces, without the necessity of any intervention of the Legislature.

28. The Provincial Legislatures will of course have, in addition, power to impose direct taxes for local objects, if this should be necessary, although not to levy Customs duties.

29. It has not been thought necessary to reserve any specific Civil List for ordinary public purposes, but the salaries now allotted to the principal public officers are maintained at their present amount until altered by an Act of the Legislature; and it is the wish of Her Majesty's Government that you should fully understand that, subject to the interest of existing holders of office, which it is necessary to preserve under all ordinary circumstances, there is no desire on their part to maintain any particular scale of remuneration for the officers under the Governor. To fix the salaries of public servants at a rate insufficient to command valuable services is, in their opinion, no true economy, but they fully recognise that the question is one for the Legislature to determine. The point which Her Majesty's Government really regard as important is, that the salaries of the principal officers of Government, whatever their amount, should be fixed by permanent Acts, and not made the subject of annual provision in the estimates.

30. The portion of the Civil List appropriated to Native services is also fixed on your recommendation; but I think it will be a better arrangement that the charge should be provided for in the manner I have described above, by deducting a given percentage from the general revenue, which will be derived mainly from Customs, than by attempting to apportion this expense in the manner you have suggested among the different provinces. The Natives being themselves large contributors to the Customs revenue, it seems reasonable that the expenses incurred on their account should be paid from it.

31. I agree generally in your views respecting municipal institutions; and there is, as you observe, no reason for altering or adding to your powers for this purpose. The provision of the Act of 1846 on this head will therefore be simply re-enacted; the Instructions of the same year, so far as these simply relate to municipal organisation, will remain in force until superseded by fresh ones.

32. I now proceed, from stating the substance of the projected measure, to explain the form in which it has been thought most advisable to introduce it.

33. The Act of 1846 was comparatively short, giving power to the Crown to frame the intended institutions and specifying only their outlines. That power was then exercised by the issue of a Charter and Instructions at considerable length.

34. This method was undoubtedly suitable, and indeed almost necessary, to meet the views with which the Constitution was framed. But the case is now materially altered. The Provincial Councils Ordinance already supplies a very large part of the necessary details, and all that is required in respect of that portion is to give the Ordinance the force of permanent law. The provisions of that Ordinance are accordingly embodied in the Bill which has been prepared, which will also confer very extensive power on the Legislature of altering the Constitution, thus removing the objection which might otherwise be felt to the introduction of such detailed regulations into an Act of Parliament which the Crown cannot from time to time amend and vary as circumstances may require.

35. It has therefore been thought best simply to repeal the existing Acts, and the Charters and Instructions framed under them, so far as these are inconsistent with the present Bill, and then to enact the necessary provisions, subject to the general power of alteration already mentioned. The Constitution thus granted by Parliament will therefore henceforth be unalterable by any power in this country short of Parliament itself; but it is left to the inhabitants themselves, through their representatives and with the assent of the Crown, to make such changes as experience may suggest and public opinion demand.

36. I have only to add that the power of the present Legislatures, both general and local, are retained until the new Constitution shall have come fully into operation. It will be necessary in the first place to establish the new Provincial Councils before the General Assembly can be framed, inasmuch as the members of the Legislative Council of the latter are to be elected by the former; and it will be also necessary that the existing General Legislature should pass the necessary laws for the conduct of the first election of the House of Representatives. Taking all these things into consideration, it has seemed necessary to fix the term specified in this Bill—namely, not more than twelve months after its proclamation—for the election of the Legislative Council, and as soon afterwards as may be for that of the House of Representatives.

37. Such are the outlines of the measure now under contemplation, with which I have thought it desirable to make you acquainted at once, although it is of course possible that before its final enactment information received from yourself, or suggestions from other quarters acceded to by Parliament, may lead to alterations of what is now proposed.

38. I have, in conclusion, to acknowledge the series of despatches noted in the margin, conveying to me the sentiments of many of the colonists as to the future government of New Zealand. I have hitherto delayed replying to these despatches because I felt that these expressions of opinion by numerous and intelligent bodies of men required more than mere acknowledgment on my part; and I was not prepared to say more on a subject which it was necessary for Her Majesty's Government to take under their serious consideration before any decision could be promulgated. I can now only repeat that the representations in question have been fully attended to before any conclusion was arrived at; and that the zeal and intelligence with which these measures have been canvassed in anticipation afford the surest guarantee that the Constitution, if deficient in any particulars, will be gradually adapted to the wants of the community by the will of the community itself; and I must conclude with expressing the satisfaction of Her Majesty's Government in finding that, notwithstanding unavoidable differences of opinion on questions of detail, your own exertions in this cause, which are so highly appreciated by themselves, have met also with the marked approbation of so large a portion of the people over whom you preside.

Governor Sir George Grey, &c.

I have, &c.,

GREY.

Enclosure 2 in No. 18.

HEADS OF BILL FOR GOVERNMENT OF NEW ZEALAND, 1852.

1. Repeals 3 and 4 Vict., c. 62; 9 and 10 Vict., c. 103; and 11 Vict., c. 5; and all Charters, Letters Patent, Instructions, and Orders in Council issued in pursuance thereof, so far as inconsistent with this Act: Provided nevertheless that all laws, &c., made in pursuance, &c., shall be valid except so far as inconsistent with this Act.

2. Continues the powers of the existing Provincial Councils until elections shall have been had and appointments of non-elective members made according to the provisions of this Act for all the provinces to be constituted under it, and the powers of the existing Legislative Council until the election of all the members of the new General Assembly shall have taken place as hereinafter provided.

3. For the purposes of this Act the following provinces are established in the Islands of New Zealand—namely, Auckland, Wellington, Nelson, Canterbury, and Otago; the limits thereof to be fixed by Proclamation by the Governor.

4. For each of the provinces into which the Islands of New Zealand are hereby divided there shall be a Legislative Council, to consist of such number of members—not less than nine—as the Governor shall by Proclamation in that behalf from time to time direct and appoint. And every such Legislative Council shall have such power and authority and be subject to such limitations and restrictions as are hereinafter provided.

5. One-third of the members of every such Council shall be appointed by the Governor of New Zealand, and two-thirds of the members of every such Council shall be elected by the inhabitants of the province, as hereinafter provided.

6. It shall be lawful for the Governor, until other provision be made by law in that behalf by Proclamation to be published in the *New Zealand Government Gazette*, to constitute within every such province convenient electoral districts, and to appoint and declare the number of members to be elected for each such district, and to make provision for the registration and revision of lists of all persons qualified to vote at the elections to be holden within such districts, and for the appointing of Returning Officers, and for the issuing, executing, and returning the necessary writs for such elections, and for taking the poll thereat, and for determining the validity of all disputed returns, and otherwise for insuring the orderly, effective, and impartial conduct of such elections: Provided always that, in determining the number and extent of such electoral districts, regard shall be had to the population and wealth of the same; and that, in determining the number of members to be elected for each district, regard be had to the number of electors within the same, so that the number of members to be assigned to any one district may bear to the whole number of the elective members of the said Council as nearly as may be the same proportion as the number of electors within such district shall bear to the whole number of electors within the limits of the province.

7. Every person within the province who shall be legally qualified as an elector, and duly registered as such, shall be qualified to be elected a member of the Legislative Council: Provided always that it shall not be necessary that he reside or possess the qualification in the particular district for which he may be elected to serve as a member.

8. The elective members of every such Council shall be chosen by the votes of the inhabitants of the province who may be qualified as hereinafter mentioned—that is to say: every man of the age of twenty-one years or (except as hereinafter mentioned) upwards having a freehold estate in possession situate within the district for which the vote is to be given of the clear value of £50 above all charges and incumbrances, and of or to which he is seised or entitled either at law or in equity for at least six calendar months next before the last registration of electors; or being a householder within such district occupying a tenement within the limits of a town (to be proclaimed as such by the Governor for the purpose of this Ordinance) of the clear annual value of £10, or without the limits of a town of the clear annual value of £5, and having resided therein six calendar months next before such registration as aforesaid; or having a leasehold estate in possession situate within the district for which the vote is to be given of the value of £10 per annum held upon a lease which, at the date of such registration, shall have not less than three years to run; or having a leasehold estate situated and of the value as aforesaid, of which at the date of such registration he shall have been in possession for three years or upwards previous to the date of such registration, shall, if duly registered, be entitled to vote at the election of a member or members for the district.

9. Provided always that no person shall be entitled to vote at any such election who is an alien, or who at any time theretofore shall have been attainted or convicted of any treason, felony, or infamous offence within any part of Her Majesty's dominions.

10. The non-elective members of every such Council shall be appointed in manner hereinafter mentioned—that is to say: it shall be lawful for the Governor of New Zealand, by Letters Patent under the Great Seal of the Colony, from time to time to appoint such persons as he may think proper to be personally or by virtue of their office non-elective members of any such Council: Provided always that no such appointment shall be made until the return of the writs for the election of the elective members.

11. Every non-elective member of any such Council shall hold his seat therein for four years from the day of his appointment or until the Council shall be sooner dissolved.

12. It shall be lawful for any Legislative Councillor, elective or non-elective, by writing under his hand addressed to the Governor, to resign his seat in the said Council; and upon such resignation and acceptance thereof the seat of such Legislative Councillor shall become vacant.

13. If any Legislative Councillor shall for two successive sessions of the Legislature of the province fail to give his attendance in the said Council, or shall become bankrupt or take the benefit of any law relating to insolvent debtors, or become a public defaulter, or be attainted of treason, or be convicted of felony or any infamous offence, or shall become *non compos mentis*, his seat in such Council shall thereupon become vacant.

14. If any person who shall have been designated as a non-elective member of any such Council as the holder of a public office shall cease to hold such office, his seat in the said Council shall thereupon become vacant.

15. Any question which shall arise respecting any vacancy in the said Council on occasion of any of the matters aforesaid shall be heard and determined by such Council on such questions being referred to them for that purpose by the Governor or by the Speaker of the said Council, and not otherwise.

16. Whenever it shall be established to the satisfaction of the Governor that the seat of any Legislative Councillor has become vacant, the Governor shall forthwith issue a writ for the election of or shall forthwith appoint a new member (as the case may require) to serve in the place so vacated during the remainder of the term of the continuance of such Council, and no longer.

17. Every such new appointment or election shall be made in manner hereinbefore provided.

18. Every such Legislative Council shall continue for the period of four years from the day of the return of the writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved, as hereinafter mentioned.

19. There shall be a session of every such Council once at least in every year, so that a greater period than twelve calendar months shall not intervene between the last sitting of the Council in one session and the first sitting of the Council in the next session.

20. The first writs for the election of members of every such Council shall be issued at some period not later than six calendar months after the proclamation of this Act in New Zealand.

21. It shall be lawful for the Governor, by Proclamation in the Government *Gazette*, to fix such place or places within the limits of the province, and such times for holding the first and every other session of the said Council, as he may think fit, and from time to time, in manner aforesaid, to alter and vary the same as he may judge advisable and most consistent with general convenience.

22. It shall be lawful for the Governor to prorogue the said Council from time to time, and by Proclamation or otherwise to dissolve the same whenever he shall deem it expedient so to do.

23. Every member of the said Council whose ordinary place of abode shall be more than ten miles from the place where any meeting of such Council may be holden shall be entitled to receive, and there shall be paid over to him on the first day of each session by the Clerk of the Council, the sum of £50 for and towards the defraying the travelling and other expenses incurred by such member in attending the meeting of the Council, and all sums so paid shall be chargeable upon and payable out of the general revenue of the province.

24. It shall be lawful for the Governor, with the advice and consent of the Legislative Council of any province, to make and ordain all such laws and Ordinances as may be required for the peace, order, and good government of such province, subject nevertheless to the exceptions, limitations, and restrictions hereinafter contained.

25. All laws and Ordinances to be made by such Council shall be subject to the confirmation or disallowance of Her Majesty, in such manner and according to such regulations as Her Majesty shall from time to time prescribe in that behalf.

26. In the making of such laws and Ordinances such Council shall conform to and observe all such Instructions as Her Majesty shall from time to time make for their guidance therein.

27. No such law or Ordinance shall be repugnant to the law of England or to any Act to be

made and enacted by the Governor with the advice and consent of the General Assembly of New Zealand.

28. It shall not be competent for the said Council to make or enact any law or Ordinance for any of the purposes hereinafter mentioned—that is to say: (1.) For the imposition or regulation of duties of Customs to be imposed on the importation or exportation of any goods at any port or place in the said Islands of New Zealand. (2.) For the establishment of any Court of civil jurisdiction or of criminal jurisdiction, except for the purpose of trying and punishing such offences as by the law of New Zealand are or may be made punishable in a summary way, or for altering the constitution or practice of any such Court to be a Court of original jurisdiction or of appeal from any of the superior Courts of any such separate province as aforesaid. (3.) For determining the extent of the jurisdiction or the course or manner of proceeding of such general Supreme Court or of the said superior Courts. (4.) For regulating the current coin of the said Islands, or any part thereof, or the issue therein of any bills, notes, or other paper currency. (5.) For determining the weights and measures to be used in the said Islands, or in any part thereof. (6.) For regulating the post-offices within and the carriage of letters within the said Islands. (7.) For establishing laws relating to bankruptcy and insolvency. (8.) For the erection and maintenance of beacons and lighthouses on the coasts of the said Islands. (9.) For the imposition of any duty or other charges on shipping at any port or harbour within the same. (10.) For regulating marriages within the same or any part thereof. (11.) For inflicting any disabilities or restrictions on persons of the Native race to which persons of European birth or descent would not also be subjected. (12.) For altering in any way the criminal law of New Zealand, except so far as relates to the trial and punishment of such offences as are now or may be punishable in a summary way as aforesaid. (13.) For regulating the course of inheritance of real or personal property, or for affecting the law relating to wills.

29. And any Ordinance or pretended Ordinance which may be made by any such Council for any of the purposes herebefore set forth shall be absolutely null and void to all intents and purposes.

30. Every such Legislative Council shall, immediately on their first meeting and before proceeding to the despatch of any other business, elect one of their members to be the Speaker thereof, which election being confirmed by the Governor shall be valid and effectual during the continuance of such Council, except in case of vacancy in the said office by death, resignation, or otherwise, in which case the election shall be repeated and confirmed as herebefore provided.

31. The Speaker so to be elected as aforesaid shall preside at the meetings of the said Council, but in his absence some member elected by the Council shall preside.

32. The said Council shall not be competent to the despatch of any business unless one-fourth or the whole number of members be present.

33. All questions which shall arise in the said Council shall be decided by the majority of votes of those members of the Council who shall be present other than the Speaker or presiding member, but in all cases wherein the votes shall be equal the Speaker or presiding member shall have a casting vote.

34. The said Council, at their first meeting and from time to time afterwards as occasion may require, shall prepare and adopt such standing rules and orders as may be best adapted for the orderly conduct of the business of such Council, which rules and orders shall be laid before the Superintendent of the province, and shall then become binding and in force.

35. Minutes shall be kept of all the proceedings of the said Council by the Clerk thereof, and such Council shall not proceed to the despatch of business until the minutes of the last meeting have been read over and confirmed, or corrected as necessary.

36. No bill appropriating money to pass unless recommended by the Governor.

37. Every Ordinance to be enacted by any such Council shall take effect from a time to be therein for that purpose appointed.

38. All Ordinances made for levying moneys and for imposing fines, penalties, or forfeitures shall grant or reserve the same to Her Majesty, her heirs and successors, for the public uses of the province and the support of the Government thereof in such manner as by such Ordinances may be directed, and no such money shall by any such Ordinances be made issuable save only by warrants to be granted in pursuance thereof by the Governor.

39. It shall be lawful for the Governor to transmit to any such Council for their consideration the draft of any such law as it may appear to him desirable to introduce, and any amendments which he shall desire to be made in any Bill presented to him for the assent of Her Majesty, and such proposed law shall thereupon be considered by the Council in like manner as if the same were a Bill which had originated therein. And it shall be lawful for the Council to return any Bill in which the Governor shall have so made any amendments, with a message signifying to which of the amendments the Council agree and those to which they disagree, and thereupon the Governor shall give or withhold his assent to or reserve such Bill at his discretion, as hereinafter provided.

40. It shall be lawful for the Governor, at his discretion, to declare that he assents to such Bills on behalf of Her Majesty, or that he withholds the assent of Her Majesty, or that he reserves such Bill for the signification of Her Majesty's pleasure thereon: Provided that all Bills altering and affecting the divisions and extent of the several districts and towns which shall be represented in the said Council, or establishing new or other divisions of the same, or altering the number of the members of the Council to be chosen by the said districts and towns respectively, or altering the number of the members of such Council, shall in every such case be so reserved as aforesaid.

41. Whenever any such Ordinance which shall have been presented to the Governor for the assent of Her Majesty shall by him have been assented to on behalf of Her Majesty, the Governor shall forthwith transmit an authentic copy of such Ordinance to one of Her Majesty's Secretaries of State.

42. It shall be lawful for Her Majesty, at any time within two years after any such Ordinance shall have been received by her, through one of her Secretaries of State, to declare her disallowance of such Ordinance; and such disallowance shall make void and annul the same from and after a day to be named in such Proclamation as aforesaid.

43. The Ordinances which shall be reserved for the signification of the assent of Her Majesty

shall not have any force or authority in the province until the Governor shall signify either by Speech or Message to the said Council, or by Proclamation as aforesaid, that such Ordinances have been laid before Her Majesty, and that Her Majesty has assented to the same.

44. An entry shall be made in the Journals of the said Council of every such Speech, Message, or Proclamation as aforesaid; and a duplicate thereof, duly attested, shall be delivered to the Registrar of the Supreme Court, or other proper officer, to be kept among the records of the province.

45. General Assembly of New Zealand to consist of the Governor, a Legislative Council, and House of Representatives.

46. The Legislative Council of New Zealand to consist of fifteen members, whereof three to be chosen by each of the Provincial Councils hereby established, in the following manner: Each member of every Provincial Council being empowered to give three votes, and to give such votes to one candidate or to divide them, as he may think proper. Members to be elected for six years; but the member elected in each province by the fewest votes to go out at the end of two years, and the member elected by the next fewest votes at end of four years, and so on.

47. Provision as to the filling up of casual vacancies.

48. Provision that in case of a dissolution of the General Assembly, as hereinafter provided, the like course of election for members of the Legislative Council shall be followed again.

49. The first election for members of the Legislative Council shall take place not later than twelve months after the proclamation of this Act in New Zealand.

50. The House of Representatives to consist of such number of members—not less than thirty-five—as the present Legislative Council of New Zealand shall by Ordinance appoint, and to be chosen for five years.

51. The present Legislative Council of New Zealand shall, in like manner, by Ordinance appoint the electoral divisions for the election of such representatives and number of members to be returned for each, and make regulations for the registration of voters, and all other regulations necessary for the conduct of such election.

52. The first election to take place at a time to be fixed by the Governor by Proclamation, such Proclamation to be issued as soon as may be after the election of the members of the future Legislative Council by the Provincial Councils shall have been notified to him by the Speaker of every such Council.

53. The members of the House of Representatives to be chosen in every such electoral district as aforesaid by the inhabitants who shall possess the qualifications required as aforesaid to vote for elective members of the Provincial Council, whether the property in respect of which they are so qualified be within or without the limits of any province, and who are duly registered as aforesaid.

54. The General Assembly for New Zealand shall be holden at any place and time within the Islands of New Zealand which the Governor shall by Proclamation appoint: Provided always that the Governor may prorogue or dissolve at his pleasure any such General Assembly, and may also dissolve the House of Representatives separately.

55. The Legislative Council of New Zealand and House of Representatives shall, until provision be otherwise made in that behalf by law, be judges, without appeal, of the validity of the election of each member thereof respectively.

56. No member to sit or vote without taking the oath of allegiance.

57. The House of Representatives shall, immediately on their first meeting, proceed to the choice of one of their own members as presiding member, which choice, being confirmed by the Governor, shall be valid and effectual during the continuance of the said House, except in the case of some intermediate vacancy of the office by death, resignation, or otherwise, in which case the choice shall in like manner be made and confirmed.

58. It shall be lawful for the Governor to appoint a President of the Legislative Council, removable at the pleasure of the Crown; and such President, if not an elected member of the Council, shall exercise during such presidency all the rights and powers of an elective member.

59. Vacancy may be created by the resignation of any Legislative Councillor or representative, if accepted.

60. Vacancy by failure to attend, insolvency, &c.

61. Provision for filling up vacancies.

62. Legislative Council and House of Representatives may make standing rules and orders, &c.

63. Certain public officers (the Colonial Secretary, Attorney-General, Treasurer, and Auditor), to sit in either House without voting.

64. No Bill appropriating public money to pass unless recommended by Governor.

65. Governor may transmit draft of laws to either House.

66. Governor may assent to, refuse, or reserve Bills.

67. Crown's power to disallow Bills preserved.

68. Date at which reserved Bills are to have force.

69. Acts to be printed.

70. Copies to be enrolled and recorded.

71. Bills granting supplies or imposing taxes to originate in House of Representatives.

72. Payment of expenses of members: £1 for every day of travelling and attendance for not more than thirty in the year, and 1s. mileage.

73. It shall be competent to the said General Assembly to make laws for the good government of New Zealand, provided that no such laws be repugnant to the laws of England; and the laws so to be enacted by the said General Assembly shall control and supersede any laws or Ordinances in any wise repugnant thereto, which may have been enacted prior thereto by a Provincial Council. And whenever any Ordinance or part of an Ordinance enacted by any Provincial Council in pursuance of the authority hereby conferred upon it, and on any subject whereon under such authority as aforesaid it is entitled to legislate, shall be repugnant to or inconsistent with any Act or part of an Act passed by the General Assembly as aforesaid, such Ordinance or part of an Ordinance shall be *ipso facto* null and void.

74. It shall not be lawful for the Legislature to levy any duty upon articles imported for the supply of Her Majesty's land or sea forces, nor to levy any duty, impose any prohibitions or grant any exemptions, bounties, &c., nor impose any dues or charges contrary to treaties.

75. The Governor shall be authorised to pay out of the revenue of the colony all the costs, charges, and expenses incident to the collection, management, and receipt thereof: Provided always that full and particular accounts of all such disbursements shall from time to time be laid before the General Assembly.

76. Accounts of the above costs, charges, and expenses to be audited by the Treasury.

77. To maintain at their present rate the salaries of certain officers specified in the Schedule to this Act annexed until the General Assembly shall alter any of the same by Act, and that the said salaries shall be a charge on the general revenue.*

78. To reserve the sum of £7,000 out of the general revenue to be placed at the disposal of the Governor for Native purposes, unless and until the General Assembly, by Act reserved for the signification of Her Majesty's pleasure, shall vary such sum.

79. The above charges to be provided for out of the general revenue, consisting of duties, taxes, rates, tolls, and assessments imposed or made payable in virtue of any Act of the General Assembly, and by deduction of an equal percentage from the amount contributed to such general revenue by each province respectively.

80. Subject as aforesaid, all such duties, taxes, rates, tolls, and assessments imposed or made payable in virtue of any Act of the General Assembly shall be appropriated to such specific purposes as by any such Act shall be prescribed in that behalf; and the residue of such proceeds which shall remain unappropriated by any such Act shall be paid over to the respective Treasuries of the said respective provinces for the public uses thereof, and subject to the appropriation of the respective Legislative Councils of the said provinces: Provided always that, in the apportionment of any such ultimate surplus as aforesaid between the said respective provinces, the part of the surplus to be assigned to each shall bear to the whole of such surplus, as nearly as may be, the same proportion which the part of the gross proceeds raised and collected within such province may have borne to the total amount of the gross proceeds of any such duty, tax, rate, toll, or assessment.

81. It shall be lawful for the General Assembly to make provision for any of the following subjects, anything in the present Acts to the contrary notwithstanding: To establish new electoral districts for the purpose of electing representatives, to alter the divisions and extent of existing electoral districts, to alter and appoint the number of representatives for such districts, to increase the whole number of such representatives, and to alter and regulate the appointment of Returning Officers; and make provision in such manner as they may deem expedient for the issue and return of writs for the election of representatives, and the time and place of holding such elections, and for the determination of contested elections in either House.

82. It shall be further lawful for the General Assembly to alter from time to time all other provisions or laws for the time being in force under this Act or otherwise concerning the election of members for the House of Representatives and Legislative Council of New Zealand respectively, and the qualification of electors and members: Provided that every Act for any of such purposes shall be reserved for the signification of Her Majesty's pleasure thereon.

83. It shall be further lawful for the General Assembly to alter all or any of the provisions herein contained respecting the election and appointment of members of Provincial Councils, and respecting the powers of such Councils, and respecting the appropriation and distribution of surplus revenues between such provinces, and to constitute new provinces, and alter the boundaries of existing provinces: Provided always that any Act for any of these purposes shall be in like manner reserved for the signification of Her Majesty's pleasure.

84. It shall be lawful for Her Majesty to constitute Municipal Corporations.

85. Power to the Crown to preserve the laws, customs, and usages of Native inhabitants, and set apart districts for that purpose, anything in the present Act contained notwithstanding.

86. Power to the Crown by Letters Patent, Instructions, or through one of the Secretaries of State, to delegate to the Governor any of the powers hereinbefore reserved to Her Majesty respecting the foundations of Municipal Corporations, the preservation of aboriginal customs, and the making regulations respecting the sale and disposal of land.

87. Power to the Crown to delegate any of the powers and authorities hereby conferred on the Governor within any of the respective provinces to any officer or officers to be by him appointed under the Great Seal of the colony.

88. Interpretation clause.

89. Act to come into operation in New Zealand when proclaimed there, except as hereinbefore provided.

No. 19.

COPY of a DESPATCH from the Right Hon. Sir JOHN S. PAKINGTON to Governor GREY.
(No. 12.)

SIR,—

Downing Street, 10th April, 1852.

I have to acknowledge your Despatch No. 145, of the 8th November, transmitting a petition to Her Majesty from Mr. Brittan, on behalf of certain settlers in Canterbury, praying for the speedy grant of representative institutions, which has been laid before Her Majesty.

With reference to this despatch, and also to those received by my predecessor on the same subject, and to which he had not fully replied before leaving office, I wish to inform you that Her Majesty's present Government are anxious, if possible, to fulfil the announcement contained in Her Majesty's Speech at the opening of the session. With a sincere desire to satisfy the wishes of the inhabitants of

* The Governor, Lieutenant-Governor, Judges, Colonial Secretary and Treasurer, Attorney-General, and others whom it may be found necessary on examination to insert.

New Zealand upon this subject at as early a period as possible, they have now under consideration a measure for granting representative institutions to the colony. This measure it is the intention of Her Majesty's Government shortly to submit to the consideration of Parliament, but the state of public business at this time prevents my feeling confident that the Bill will be passed during the present session.

Governor Sir G. Grey, &c.

I have, &c.,

J. S. PAKINGTON.

No. 20.

COPY of a DESPATCH from the Right Hon. Sir JOHN S. PAKINGTON, to Governor GREY.
(No. 32.)

SIR,—

Downing Street, 16th July, 1852.

I have now to transmit to you the Act to grant a Representative Constitution to the Colony of New Zealand, which has received the Royal assent.

2. When the seals of this department were committed to me in the early part of the session of Parliament which has just terminated, I found the heads of a Bill for the same purpose already in preparation under the directions of my predecessor, Earl Grey; and, on full consideration of the subject, Her Majesty's Government did not hesitate to adopt the general outlines of the measure thus originated, which appeared to them calculated to fulfil the expectations of the people of New Zealand, and to confer on them constitutional rights in a form the most adapted to their peculiar circumstances.

3. The intentions with which that measure was framed were explained by my predecessor in a draft despatch intended to accompany it; that draft has been printed for Parliament with a view to the discussions on this Bill, and I fully adopt the views set forth in the first thirteen paragraphs of that draft, explaining the general purposes of the Bill and the relation in which the central Legislature will stand to the Provincial Councils, the only difference which it is necessary to note being that Her Majesty's Government have thought it advisable to add New Plymouth to the number of separate provinces.

4. It has appeared, however, to Her Majesty's Government that the almost necessary effect of this subdivision into six provinces, when effected, will be to supersede the present division into two provinces, and along with it the existing two Lieutenant-Governorships. The Commission and Instructions issued to you under the present Act will be framed with a view to this change. I do not offer any opinion whether the present system has worked in a satisfactory manner, but it was in its nature temporary only, and New Zealand will, as far as I am able to judge, be better governed in future under a single head, with the assistance of local officers in the several settlements only. This change will at all events have the effect of diminishing, in some degree, the civil expenditure of the colony, a result which I am anxious to effect.

5. In the remaining portions of the Act there are some important differences from the scheme of the late Government; and, without entering into these in great detail, I shall proceed to give some explanation of the measure in the shape which it has now assumed.

6. It has been thought advisable that the Provincial Councils should consist of a single Chamber consisting wholly of elected members. They have been led to this conclusion by the comparatively unimportant nature of the functions of these Councils, which will be limited to local objects, such as would be considered here to be of a municipal character rather than partaking of the higher attributes of legislation.

7. For the same reason Her Majesty's Government determined on submitting to Parliament another suggestion originated by yourself, although not actually reduced by you into practice: that of rendering the Superintendents of provinces elective. They are aware that this is an innovation on ordinary usage, inasmuch as these officers have one function at least of a higher and more independent character than the elective chief magistrate of an English municipality—viz., that they are to possess a negative voice in the passing of local Ordinances. But they have not on this account thought it necessary to withhold what they have every reason to believe will be regarded by the colonists as a valuable concession; while they feel a confident hope that the electors will form the best judgment as to the persons qualified to serve the public interest in offices for which a knowledge of the wants and circumstances of each particular locality is peculiarly requisite.

8. After the best consideration which Her Majesty's Government have been able to give the subject, Parliament has determined, under their advice, to insert in the Act no provision respecting the payment of the Superintendent, considering it a subject best left to the decision of the Provincial Councils. I may here add that they have in a similar way omitted all provision for payment of members either of the Provincial Councils or the House of Representatives, not from having formed any judgment adverse to such a regulation, but from feeling satisfied that the manner and amount of such payment, if any is thought necessary, will be best settled by those respective bodies.

9. Nor have provisions been inserted giving executive authority of any kind to the Superintendents. This is a point on which Her Majesty's Government did not feel that they had sufficient information to adopt any definite course, while the general prerogative of the Crown and the powers of the general and local Legislatures seemed amply sufficient to provide whatever might be ultimately deemed advisable.

10. It is, however, my wish that any such executive powers as may be found necessary in order to carry on the functions of government in the respective settlements may be intrusted to these officers. This may be done by your own authority as representing the Crown, or by Act of the central Legislature, as the case may require; but they should at all events be always included in the Commission of the Peace for their respective localities.

11. Another point in which you will observe that your own suggestions have been adopted is the leaving the power of allowance and disallowance of provincial Ordinances in the Governor instead of the Crown.

12. I now proceed to the constitution of the General Assembly, in respect of which the principal deviation introduced by Her Majesty's Government from the scheme of their predecessors is that a Legislative Council of members nominated by the Crown is maintained, according to the ordinary model of colonial Governments, except that—as in Canada, to which a somewhat similar constitution was granted by Act of Parliament—their nomination is for life. I need not here enter into the particulars of the reasons for this change, which will be readily collected from the Parliamentary debates which have taken place on the subject.

13. The number of the Council is limited by a minimum only, in order that it may hereafter be expanded as the exigencies of the public service may from time to time require; but for the present it is proposed to limit it by your Instructions so as not to exceed fifteen. The Instructions will accordingly empower you to nominate not less than ten nor more than fifteen persons to the office of Legislative Councillor. And it is desirable, without waiting for those Instructions, you should at once proceed to make your selection, and report it immediately to Her Majesty's Government.

14. It has been thought upon the whole most convenient to leave it to the House of Representatives to make on its first meeting all the rules which may appear expedient for its own management, even to the appointment of a quorum for the conduct of business.

15. It has been the object of Parliament to give to the General Legislature thus constituted powers as extensive as it was possible to confer consistently with the maintenance of the prerogatives of the Crown. Accordingly there is no restriction on those powers introduced into the Act on which I think it necessary to make any observation, except the reservation of certain sums for specific services, ordinarily called a civil list; which reservation, however, by no means withdraws those services from the control of the Legislature, but only renders it necessary that this control should be exercised by way of permanent Act instead of annual appropriation, and, in certain instances, with the consent of the Crown. The extract which I annex from the despatch (Parliamentary Paper, "Australian Constitution," 4th February, 1851, pages 34 and 35), addressed by my predecessor to Sir Charles Fitzroy when transmitting the last Australian constitutional Act, will more fully explain my meaning.

16. In fixing the sum thus reserved, Her Majesty's Government have been guided by the information which you have yourself supplied. They have not thought it necessary to place the salary of more than one puisne Judge on this permanent footing. The sum defined as for the "establishment of the General Government" and that for "Native purposes" you are empowered to appropriate in such manner as you may yourself think fit, taking care to keep the Secretary of State fully informed of the details of such appropriations, as well as to render accounts of them in the manner prescribed by section 65.

17. The object of the provisions of sections 62 and 63, establishing a distinction between gross and net revenue, is to place the management of the revenue in New Zealand as nearly as possible on the same footing as in this country—namely, by reserving the collection of the revenue to the Executive. For the present the cost of the collection of Customs will be regulated and audited by the Lords Commissioners of the Treasury. But whenever the control of the Customs is handed over to the local authorities, as is gradually taking place in the neighbouring colonies, their Lordships will be able to delegate this power as far as needful to the authorities.

18. Her Majesty's Government, in framing the Constitution of New Zealand and submitting it to the decision of Parliament, determined not to except the control of the waste lands of the colony from the general powers conferred on its Legislature. Without entering into the discussions to which this subject has given rise, it is enough for me to say that they felt satisfied that this revenue was likely to be administered in a more efficient manner, both for the benefit of the empire at large and of the community of New Zealand, by the local Legislature than by any other authority; and they were of opinion that this administration would be better intrusted to the General Assembly than to the Provincial Legislatures, not only by reason of its great importance, but also because a uniform administration of the waste lands is desirable in regard both to efficiency and economy.

19. To this general concession there are, however, certain exceptions rendered necessary by the peculiar circumstances of New Zealand, both as respects the Native title to land and the rights already granted by Parliament to the New Zealand Company.

20. It has appeared so essential to maintain the principle that all acquisitions of land from the Native tribes should take place through the local Government only, that this regulation, which previously rested on the Royal Instructions only, has now been incorporated in the Constitution Act; and, in order to secure its maintenance, the Governor is empowered to pay the purchase-money to the Natives out of the first proceeds of all the land revenue.

21. He is, secondly, empowered to pay out of the same revenue the sums which may become payable to the New Zealand Company.

22. In dealing with this very difficult portion of the question before them, Her Majesty's Government have had only two considerations in view: the necessity of preserving the faith of the public, already pledged to the New Zealand Company, and their own desire to do this in such a manner as should be least burdensome to the resources of the people of New Zealand.

23. It was, indeed, urged upon Her Majesty's Government that they should leave the New Zealand Company to their rights as defined by the Act 10 and 11 Vict., c. 112. That Act made the purchase-money of their estates a first charge on the land revenue after surveys and emigration; and Her Majesty's late Government were advised that, from the manner in which the Act was framed, this charge was quite indefinite, there being no particular proportion thus fixed by law for survey and emigration.

24. But this uncertainty only made the charge more burdensome. If (to put a supposition, which I do not believe would have been realised) the Legislature of New Zealand had thought proper to reduce the payment to the New Zealand Company to a mere fractional amount, they could only have committed this act of injustice (for such under the circumstances it would have been) by devoting the whole residue to surveys and emigration without being able to appropriate any portion whatever to any public work or other purpose of general advantage.

25. This had been so strongly felt by my predecessor, Earl Grey, that he had thought it advisable, by way of compromise with the New Zealand Company, to fix the proportion to be paid to them by mutual agreement at one-fourth of the gross proceeds; and after the best consideration I could give the subject, with the advice of the parties best qualified to assist me, I arrived at the conclusion that the arrangement thus practically in existence already was that which it was best to retain in the Act.

26. I regret that I have found myself unable to accede to your proposal, made to my predecessor, to transfer this charge from the local land revenue to the Imperial Treasury, not seeing any grounds of justice for the change. It was Lord Grey's project, on the other hand, to alter the charge into a fixed debt of less amount chargeable on the whole revenue of the province, and bearing interest: a project on which I offer no opinion of my own, merely stating that I have no doubt Her Majesty's Government will at all times be ready if called on to assist in any reasonable scheme for the extinction of the debt which the local Legislature may devise.

27. The remaining exceptions to the general transfer of the control over the waste lands consist in the provisions thought necessary to maintain the Canterbury Settlement, and to empower Her Majesty's Government to maintain that of Otago, if it should find the Crown bound by existing engagements to do so, or shall deem it expedient to renew the powers of the Association on fresh terms. For the present, therefore, the affairs of these settlements and the distribution of their funds remain as heretofore, and I will duly acquaint you with any decision at which Her Majesty's Government may arrive respecting either of them.

28. I shall also address you further as to the affairs of the other settlements of the New Zealand Company so far as these may be affected by the present Act.

29. In addition to these functions, the Act confers on the Legislature, by sections 67, 68, and 69, the most extensive powers of introducing into the Constitution such changes as experience may indicate or deliberate public opinion may require.

30. Your own powers and duties, with reference to the ultimate confirmation or disallowance of Acts of the General Assembly by the Crown, are defined by the 56th and following sections so fully as to render it unnecessary for me to enter into any details on the subject.

31. Before dismissing the subject of the General Assembly, I wish to point out that, while five years is fixed as the period of its duration, the Act contains no provisions fixing the periods of its sessions, or rendering it imperative on the Governor to assemble it at stated times. It has been felt that, under the present circumstances of New Zealand and with a complete machinery of Provincial Councils, it was possible, although no absolute prediction on this point can be hazarded, that for some time its meetings will be occasional only.

32. The provisions of section 70 have been introduced into the statute in order that its enactment may not clash with any measures which you are taking, or may be advised to take, respecting the establishing of municipalities; at the same time I wish to convey my own opinion that, considering the character and functions of the Provincial Councils, which must be eminently of a municipal character, it seems doubtful whether there will be any necessity for the creation of other local authorities subordinate to these until New Zealand has attained a greater amount of population than is likely to be the case for some time.

33. It has further been thought essential to preserve to the Crown, by section 71, with power of delegating it to yourself, the authority, which you already possess, of portioning out districts in which the customs and usages of the Natives may be preserved, and exempting them as it were from the common law of the settled portions of New Zealand. This is a power not to be exercised without strong ground, and which it is rather to be hoped you may not find it necessary at present to exercise; but, under the power reserved by section 79, I have to inform you that the authority given to the Crown in that behalf, as well as for the formation of Municipal Corporations, by section 70, is for the present delegated by Her Majesty to yourself.

34. The provision of section 80, defining the boundaries of New Zealand, requires a short explanation. It appears to me that, by your Commission, the limits of your Government to the south are so defined as to include the Auckland Islands, on which a separate settlement has lately been established by British colonists, and which it would be inconvenient to place within the limits of New Zealand for the purposes of the present Act. The southern boundary is therefore fixed at S. latitude 50°.

35. I have now to add a few words respecting the duties cast upon yourself by the Act in order to bring the Constitution into operation.

36. By section 1 of the Act existing laws are preserved, and existing legislative authorities retained in action until the new Legislatures are established.

37. The duty of appointing the boundaries of provinces and of taking the necessary steps for the elections, both provincial and general, has been intrusted to yourself. This course has been adopted as, upon the whole, more convenient and simpler than that of causing the necessary regulations to be made by Ordinances of the Legislature. But although in terms vested in yourself you will understand that it is desirable that they should be exercised with the advice of your Executive Council, I refer you to my predecessor's draft despatch as to the principles on which this division should be made—paragraphs 9, 10, and 11.

38. I have now only to add that I have great pleasure in intrusting to yourself the conduct of this very important measure; and in the commission of these extensive powers to the colonists of New Zealand Her Majesty's Government have had abundant opportunities of recognising in the correspondence which has taken place on this subject between yourself and their predecessors your strong attachment to liberal institutions, and the able manner in which you and your Council have both prepared the way for their introduction and urged on the Imperial Government the necessity of speedily creating them as soon as the temporary difficulties which induced you at first to advise their suspension had passed away. They are, in fact, fully aware that the measure itself, now reduced into a law, owes its shape in great degree to your valuable suggestions. They, therefore, do not doubt that your proceedings, in order to carry it into execution, will prove satisfactory to the colonists; while an

additional reason for their placing this reliance on you is the confidence with which you are personally regarded by numbers of Her Majesty's subjects of the Native race who have been brought within these few years to participate in the blessings of religion and social culture. Whatever natural anxiety may still attend the success of this experiment chiefly relates to the manner in which it may affect their feelings and their interests; but Her Majesty's Government have the strongest hope that your administration of it may not only prove acceptable to them, but that at no distant date they may be found to avail themselves largely of the constitutional privileges thus thrown open to those among them who have made progress in civilisation in common with their fellow-subjects of British race.

Governor Sir G. Grey, &c.

I have, &c.,

JOHN S. PAKINGTON.

Enclosure in No. 20.

EXTRACT from a DESPATCH addressed by Earl GREY to Governor Sir C. A. FITZROY, dated 30th August, 1850.

13. The effect of sections 13, 17, and 18 is to give the Legislature a considerably increased control over that part of the colonial expenditure now charged on what is called the Civil list. The Legislatures will have the power to alter, by Acts passed for that purpose, all or any of the sums specified in the Schedules. In the case of these alterations affecting the salary of the Governor, or the appropriation for public worship, it is required by the present Act of Parliament that the colonial Acts should be reserved for the signification of Her Majesty's pleasure.

14. In the former Act there was a power given to the Governor, by the 38th section, of varying the sum appropriated to the purposes of Schedule B, and the savings accruing from such alteration were exempted from the control of the Legislative Council. This latter proviso has been omitted in the present Act, as there appeared to be no sufficient reason why the ordinary power of the legislative body should not extend to these particular savings.

15. This extension of the authority of the Legislature has been rendered expedient in the view of Her Majesty's Government by the evidence of the hitherto successful progress of constitutional government. The manner in which the people of New South Wales have hitherto exercised the powers they possessed through their representatives seemed fully to justify the grant of the enlarged power which will now be intrusted to them in relation to their financial affairs; but it has been deemed right by Parliament, in order the more completely to maintain the independence of the Judges of the Supreme Court, to provide that no diminution of judicial salaries by colonial enactments shall affect Judges appointed previously to the passing of such enactment.

16. All other salaries, except those of the Governor and the Judges, are placed by Parliament under the ordinary control of the Legislature. With regard to the mode of exercising this control, you will, however, observe that reductions of fixed establishments, or of any expenditure provided for by permanent laws, can only be effected by Acts of the Legislature, which, of course, require the assent of the Crown signified by yourself and confirmed by Her Majesty; but I wish you distinctly to understand that there is no desire on the part of Her Majesty's Government to prevent prospective reductions of charges which, in the opinion of the colonists, will safely admit of being diminished. The interests of existing officeholders must be protected, because they accepted those offices with expectations which cannot justly be disappointed. But, subject to these interests, there is no objection to the Legislature fixing whatever scale of emoluments they may think fit for public servants to be hereafter appointed. I should, for my own part, consider it highly injudicious to reduce the salary of an office so as to render it no longer an object of ambition to men of ability and of respectable station. But this is a matter in which the interests of the colonists only are involved, as they will be the sufferers from any failure to provide adequate remuneration for those by whom the public service is carried on; the determination, therefore, of what is sufficient must be left to the Legislatures, with whom will rest the responsibility for the judicious exercise of the power.

17. I consider it, however, absolutely essential that, whatever may be the rate of payment, the salaries of all the principal officers of the Government should, for the reasons stated in the report of the Committee of the Privy Council, be permanently granted; that is, not voted from year to year, but provided for in the same manner as charges on the Consolidated Fund in this country by Acts, and therefore only susceptible of alteration by Acts of the Legislature passed in the ordinary manner, with the consent of the Crown. You will, therefore, understand that you are not at liberty to give the assent of the Crown to any Act which may be passed reducing the salaries of those who are now in the public service, or rendering dependent on annual votes any of the charges now provided for by permanent appropriations. Any Act of this sort you will reserve for the signification of Her Majesty's pleasure, unless you consider them so manifestly objectionable as to call for their rejection. Subject to this restriction you are authorised to exercise your own judgment in giving or withholding your assent from Acts for the reduction of the fixed charges on the colonial revenue.

No. 21.

COPY of a DESPATCH from the Right Hon. Sir JOHN S. PAKINGTON to Governor GREY.
(No. 59.)

SIR,—

Downing Street, 16th September, 1852.

With reference to my Despatch of the 16th July last (No. 32), I have now the honour to transmit to you herewith the Queen's Commission under the Great Seal of the United Kingdom appointing you to be Governor and Commander-in-Chief in and over the Islands of New Zealand, together with Instructions under the Royal sign-manual and signet for your guidance in the administration of the Government of those Islands.

I have, &c.,

Governor Sir G. Grey, &c.

JOHN S. PAKINGTON.

No. 22.

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor GREY.

(No. 27.)

SIR,—

Downing Street, 8th March, 1853.

I have received your Despatch No. 109, of the 27th of August last, enclosing copies of Proclamations which you had issued under the authority of the Provincial Councils Ordinance of the General Assembly of New Zealand, and detailing the several steps which you had taken for carrying out the provisions of that Ordinance. The measures which you have now reported would of course be superseded on the arrival in the colony of the recent Constitution Act of the Imperial Parliament, though I trust that the arrangements which you had made under the provisions of the local Act may still be rendered in some measure subservient to the purposes of the more recent enactment.

Governor Sir G. Grey, &c.

I have, &c.,
NEWCASTLE.

No. 23.

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor GREY.

(No. 29.)

SIR,—

Downing Street, 14th March, 1853.

I have received your Despatch No. 108, of the 23rd of August, with a letter from Mr. John Dorset on behalf of certain colonists styling themselves the Settlers' Constitutional Association of Wellington, enclosing a series of resolutions which had been adopted by those persons, chiefly relative to the Provincial Councils Ordinance; and I need only observe in answer that this subject is disposed of by the Act of Parliament of last session and by the Instructions thereupon conveyed to you in my predecessor's Despatch No. 32, of the 16th July.

Governor Sir G. Grey, &c.

I have, &c.,
NEWCASTLE.

No. 24.

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor GREY.

(No. 75.)

SIR,—

Downing Street, 5th September, 1853.

I have to acknowledge the receipt of your Despatch No. 35, of the 5th of March last, forwarding copies of two Proclamations, dated the 28th of February and 5th of March last respectively, which you had issued under the authority of the new Constitution Act for New Zealand (15 and 16 Vict., c. 72) for dividing the New Zealand Islands into the six provinces constituted by the above-mentioned Act, and for again dividing those six provinces into electoral districts, and for other purposes connected therewith.

Governor Sir G. Grey, &c.

I have, &c.,
NEWCASTLE.

No. 25.

COPY of a DESPATCH from the Duke of NEWCASTLE to Governor GREY.

(No. 86.)

SIR,—

Downing Street, 31st October, 1853.

I have to acknowledge the receipt of your Despatch No. 49, of the 9th of May last, enclosing a copy of a Proclamation, dated 7th of March last, which you had issued under the authority of the new Constitution Act for New Zealand, declaring your assumption of the powers vested in you by virtue of the Letters Patent addressed to you by the Queen in pursuance of the above-mentioned Act.

Governor Sir G. Grey, &c.

I have, &c.,
NEWCASTLE.

APPENDIX.

EXTRACTS of CORRESPONDENCE between the COLONIAL DEPARTMENT and Mr. FOX, of Wellington, New Zealand, relating to the Political Institutions of that Colony.

No. 1.

W. FOX, Esq., to Earl GREY.

MY LORD,

Parthenon Club, Regent Street, 12th June, 1851.

I have the honour to forward to your Lordship copies of the documents noted in the margin [1. Report of Committee adopted at a public meeting at Wellington, New Zealand; 2. Resolutions passed at a public meeting at Nelson; 3. Memorial accompanying the above resolutions], the originals of which were sent through the local Government of New Zealand, but at so late an hour previously to the sailing of the ship by which I came from the colony that it was probable that the local Government might not be able to transmit them by that opportunity. I was therefore desired, by the Secretaries of the Wellington and Nelson Settlers' Constitutional Associations, to forward the enclosed copies to your Lordship, it being conceived that at so advanced a period of the session of Parliament your Lordship would wish to have the earliest information of what was passing in the colony, though it might not be possible to forward it through the proper official channel.

I have, &c.,
WILLIAM FOX.

No. 2.

B. HAWES, Esq., to W. Fox, Esq.

SIR,—

Downing Street, 2nd July, 1851.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 12th ultimo, enclosing copies of a report of a Committee, adopted at a public meeting at Wellington, New Zealand, and of some resolutions passed on a similar occasion at Nelson, together with a memorial which accompanies those resolutions.

I have, &c.,

B. HAWES.

No. 3.

W. Fox, Esq., to Earl GREY.

MY LORD,—

Parthenon Club, 3rd January, 1852.

On the 15th November, 1850, being on the point of leaving New Zealand for England, I was appointed honorary Political Agent for the colonists of Wellington. The appointment was made unanimously at one of the largest public meetings ever held in the colony, not less than five hundred male adults being present, and was ratified at a subsequent meeting held about three months afterwards. The object of my appointment was that I might bring before Her Majesty's Government the views and earnest desires of the colonists on the subject of a Constitution of self-government, and particularly in reference to that proposed to be introduced by His Excellency Sir George Grey, the Governor-in-Chief.

On my arrival in this country in June last I was advised that, no measure being then before Parliament, it was too late to move the matter during the current session. I, therefore, merely forwarded to your Lordship my address, and certain documents with which I was intrusted by the colonists, and among them one which contained the resolution by which I was appointed their Agent.

The time has now arrived when I consider it my duty, on behalf of the colonists whom I represent, to request the attention of Her Majesty's Government to the subject; and I have, therefore, the honour to beg that your Lordship will favour me with an interview, in order that I may personally state to you the wishes and feelings of the colonists.

I have, &c.,

WILLIAM FOX,

Honorary Political Agent for the Colonists of Wellington.

No. 4.

F. PEEL, Esq., to W. Fox, Esq.

SIR,—

Downing Street, 31st January, 1852.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 3rd instant, in which, in the capacity of Political Agent for the colonists of Wellington, you request an interview with his Lordship, in order that you may personally state the wishes and feelings of the colonists on the subject of the Constitution of New Zealand. In reply, I am directed to acquaint you that his Lordship cannot recognise you as the Agent of the settlers, and that he regrets that the many demands upon his time render it impossible for him to see you at present without great inconvenience. I am directed to add that any observations which you may have to offer, and which may be sent to Lord Grey in writing, shall be duly considered.

I have, &c.,

F. PEEL.

No. 5.

W. Fox, Esq., to F. PEEL, Esq.

SIR,—

Parthenon Club, 24th January, 1852.

I have the honour to acknowledge your letter of the 21st instant, in reply to mine of the 3rd, informing me that Earl Grey cannot recognise me as a Political Agent of the Wellington colonists, and declines to favour me with a personal interview.

I regret exceedingly that his Lordship should have come to that decision. Of the fact of my representing the Wellington colonists there is no doubt. I was appointed at one of the largest and most respectable public meetings ever held in the colony, and the appointment was ratified three months afterwards at a similar meeting. It will be a serious disappointment to the colonists that, after travelling so great a distance for the purpose of laying their views before Her Majesty's Government at this important crisis of the affairs of the colony, I should be denied the facile and effective method of communicating their sentiments by a personal interview with Lord Grey.

I, of course, submit to his Lordship's determination, but I avail myself of the opportunity afforded by the permission contained in your letter to state in writing the complaints of the colonists. I enclose two documents, which I have the honour to request that you will lay before his Lordship. No. 1 is a minute, with an appendix, containing a statement of the complaints which the colonists make against the present Government of the colony. No. 2 is a minute relating exclusively to the course pursued by his Excellency Governor Grey in reference to the introduction of free institutions.

I have, &c.,

WILLIAM FOX.

Enclosure 1 in No. 5.

MINUTE ON THE GOVERNMENT OF NEW ZEALAND.

HAVING undertaken to represent in this country the opinions and wishes of my fellow-colonists of Wellington as to the future form of Government in New Zealand, I should not discharge that task without giving expression to their complaints of the Colonial Government as now administered.

These complaints are of a general and of a specific kind: general, as regards the whole course and tenor of policy pursued; specific, as regards particular acts of maladministration. The detailed proof of what I advance will be found in the Appendix, reference to which will be made in the proper places. The liberties which have been repeatedly promised to New Zealand are still withheld; and, though a measure has been proposed to Her Majesty's Government by Governor Grey, it falls far short of the desire and wants of the colony. What that measure ought to be cannot be properly settled without a distinct view of the evils from which the colony seeks to be relieved.

The complaints which the colonists of New Zealand make against the existing Government relate to the following subjects:—I. The unnecessary postponement of free institutions, and the attempt to force on the colony an odious form of Government. II. The illegality of various acts of the local administration. III. Injurious, if not unlawful, tampering with the currency. IV. Injudicious Native policy. V. Excessive taxation. VI. Wasteful expenditure. VII. The creation of heavy debts. VIII. The non-establishment of a Militia.

I. (1) Since the year 1845 the colony has been tantalised with frequent prospects of obtaining the management of its own local affairs. (2) It has been subjected as frequently to a succession of irritating disappointments.

In 1846 Parliament passed a measure for establishing a Constitution forthwith—a measure which, if suffered to take effect, would have vested in the colonists in a large degree the desired control of their own affairs. With all its defects it was accepted cheerfully and gratefully. After a long period of despotic rule, under which the colony had suffered deep injury, the proposed change was hailed as an important, if not a complete, answer to their wishes. It reached the colony in 1847, and the colonists soon became acquainted with its nature, though it was not officially promulgated. It remained for several months without any intimation of the intentions of the Government in respect of it. Its meditated suspension, and the grounds on which such suspension had been recommended by Governor Grey, became first known by accident upon the publication of Lord Grey's despatch to Sir George Grey of 1848.

The colonists complain of the double wrong committed in this matter. They complain of Governor Grey's unconstitutional, if not illegal, privation of political rights, conferred on them by Act of Parliament. They complain yet more loudly and bitterly of the groundless and injudicious allegations by which the Governor attempted to justify it. His allegations were partly the unfitness of the colonists to exercise political privileges—a suggestion deliberately contradicted elsewhere by Governor Grey himself⁽³⁾; partly of want of means of intercommunication between the different settlements—a reason manifestly frivolous and now practically abandoned⁽⁴⁾; partly of the fear of danger to Native interests by placing political power in the hands of colonists—a reason founded on the wrongful and groundless assumption that political power would be likely to be abused by the colonists⁽⁵⁾. Now, after several years of increasing dissatisfaction, these pretences are withdrawn, and, without any material change of circumstances, he has recommended the introduction of what he calls free institutions; but the long suspension of their rights, and the causeless infliction on the colony of the mischiefs of despotic rule for so many years, are grievances which have roused a spirit of angry discontent. Subsequent events have aggravated this feeling.

By the Act of 1848 of the Imperial Legislature, suspending the Constitution for five years, the Governor was invested with powers to constitute, during that interval, temporary Provincial Legislatures, embodying, if he so pleased, the representative principle⁽⁶⁾; and so restoring to the colonies in part the rights of which they had been deprived. That Act was purposely framed so as to permit the partial introduction of self-government, if thought fit, into either of the two provinces into which the colony was divided. The reasons alleged by Governor Grey for suspending the Constitution of 1846 applied exclusively to the Northern Province⁽⁷⁾. In the Southern Province Sir George Grey had himself declared "that there never was a body of settlers to whom the power of local self-government could be more wisely and judiciously intrusted," and he pointed out that there was no reason why any delay should occur in bestowing representative government on the southern colonists on account of any supposed unfitness in the northern.

Representing, as I do, the colonists of the former province, I respectfully protest against the wrong done to them by Sir George Grey in withholding from them, after this testimony to their fitness, the means of local self-government, distinctly contemplated by the provisions of the Suspension Act. Disregarding the unanimous wishes of the colonists⁽⁸⁾ he passed a measure for establishing Provincial Legislatures composed exclusively of nominees. Even the benefit of that measure, such as it was, he withheld from the colonists of the Northern Province. In the Southern Province he attempted to put the new measure in force, and with difficulty got together a Provincial Legislature in which the principal and most eligible colonists refused to take part as Councillors. The Provincial Legislature so constituted was summoned and held one session of mere form in the commencement of the year 1849, and afterwards, during that year, held one session for the despatch of business. Since that period they have never met. In 1850 Governor Grey interdicted their meeting after they had been summoned by the Lieutenant-Governor⁽¹⁰⁾; caused the revenue of the province to be appropriated for eight months without even a semblance of legislative sanction; and subsequently transferred all the functions of the Provincial Legislature to the general Council subsisting under the provisions of the Act of 1840, which is composed almost exclusively of his own official dependants⁽¹¹⁾. By that Council he has caused an ordinance to be passed for appropriating the revenue of the Southern Province. One of the consequences of these measures has been the resignation of the best members (six out of nine) of the Provincial Legislature, and its absolute demise for want of the requisite number of unofficial members, no other persons being found willing to supply their places.

Finding it impossible to bring into effectual operation a system of Government opposed to the sentiments of the whole colonial community, Governor Grey has at length proposed a measure of more popular aspect, but embodying, in a large degree, the very principles which caused the failure of his previous measure. By this last scheme he proposes to constitute provincial legislative bodies, to be composed one-third of nominees and two-thirds of elected members; but reserving paramount legislative authority to his general nominee Council, composed, as already stated, mainly of his own official

dependants. This system of centralisation and nomination is directly opposed to the municipal and elective system, to which the colonists are inflexibly attached. Against this new scheme the colony protest by almost an unanimous voice, as being calculated to defer the establishment of responsible Government, whilst at the same time it has the effect of relieving the Governor from all real responsibility⁽¹²⁾.

II. 1. The same disregard of law which marks Governor Grey's acts in reference to the introduction of free institutions has been shown in other instances. He has caused ordinances to be passed affecting the Crown lands, and has disposed of such lands, both absolutely and for temporary purposes, by acts of his nominee Legislative Councils, which are at least doubtful in point of law, the consequence of which has been to sacrifice rights of the Crown, which, it is understood, have been affirmed by decision of the Privy Council; to confirm acts of his predecessor which had been made grounds of his recall; to dissipate and waste the means of the Crown and the resources of the colony, and to lead, as he himself points out, to the probable stoppage of land sales in the Northern Province, to possible disputes with the Natives, and the cessation of even such colonisation as had previously gone on in that province⁽¹³⁾.

2. While thus directly infringing on the rights of the Crown, rights which it holds in trust for the public service of the colony, by wrongful alienation of its waste lands, he has deeply compromised those rights in other ways by neglecting to put in force laws passed for their protection, prohibiting dealings for land between settlers and the Natives; while, by conniving at a system of unlicensed squatting on Native lands, he has virtually neutralised the Crown's pre-emptive right, and raised unsurmountable difficulties in the way of obtaining the cession from the Natives of their territorial claims. I refer in particular to the case of the Wairarapa Plains, near Wellington, which are now tenanted, in defiance of the law, by European settlers holding under the Natives, to whom they are paying large rents, with the distinct knowledge and express acquiescence of the Government, which has acknowledged a vested interest in the squatters.⁽¹⁴⁾ In other instances his course of Government has been marked by a similar disposition to recognise no rule but his own will.

3. In 1848 he arbitrarily closed the County Courts, and transferred their jurisdiction from Judges who were barristers and solicitors of the Courts at Westminster, to salaried Resident Magistrates, not one of whom is a lawyer, who hold office at the mere will of the local Government, and who are the executive representatives of the Governor, absolutely under his control and influence⁽¹⁵⁾.

4. Under proclamation of martial law, issued without legislative sanction, he removed Natives who were British subjects from the jurisdiction of civil tribunals, and, though charged with civil offences, subjected them to military trial and execution, though within the limits of, and in sufficient proximity to, the jurisdiction of the Supreme Court⁽¹⁶⁾.

5. He has, in express contravention of his instructions, established a Government bank, founded on principles dangerous in themselves, and distinctly disapproved of by the Home Government; he has made the notes of the bank legal tender; has charged them on the colonial revenue; and has placed the bank funds at his own absolute disposal⁽¹⁷⁾.

IV. 1. As regards the Natives and their relation to the colonists, the tendency of his policy has been injurious, and threatens the great disaster of fresh collision between the races. His object—in which he has been partially successful—has been to ingratiate himself personally with the Natives, and to excite in their minds towards himself individually a favourable feeling; but he has purchased this at the cost of the colonists by holding himself up in favourable contrast with them, and rousing feelings towards them of jealousy and distrust. To the alleged existence of these feelings he appeals as his principal plea for retaining to himself arbitrary power. His despatches to the Home Government, published in parliamentary papers, and thus unavoidably circulated in the colony, have a direct and mischievous tendency to feed the Native mind with alarm at the introduction of popular institutions⁽¹⁸⁾. The colonists further complain of these injurious suggestions as being contradicted by the whole tenor of the intercourse between the races, and by the friendly interest invariably shown by the colonists in all which concerns Native welfare. They repudiate the imputation that, by giving them political freedom, the interests of the Native race will be endangered; on the contrary, the colonists affirm with confidence that no measure would tend so much to the advancement and civilisation of the Natives as to bestow upon the colonists the power of giving effect to their kindly sentiments towards them⁽¹⁹⁾. In their view, which is borne out by facts, the policy of the Government, as administered by Sir George Grey, has not been beneficial to the Native race itself. Friendly intercourse with the settlers and the efforts of missionaries have doubtless made an impression on the general mass of barbarism; but this effect is almost purely local, and confined to the spots where such salutary influences are at work. The policy of Government has been that of neglect and indifference; it has neither conciliated the chiefs nor rescued them from being degraded to the level of their former slaves⁽²⁰⁾, nor promoted social organisation, nor helped to introduce the knowledge and practice of useful arts. Three small hospitals and a few schools, the former within the limits of British towns, and an ordinance for the adjustment of debts and disputes before a Resident Magistrate, the effect of which is ostentatiously magnified in the Governor's despatches, have been almost the only Government efforts in this direction⁽²¹⁾. Considering the large means placed at the Government disposal by the liberality of Parliament and colonial taxation, the effect has been lamentably disproportionate.

2. As regards the settlement of Native territorial claims, that difficult question remains unsolved, and is as far as ever from solution. The system of "squatting" on Native land, openly connived at by the Government, in the face of ordinances and proclamations prohibiting it, has already become a barrier to the surrender of such claims, and, if not immediately checked or placed under control, can hardly fail to involve the colony in disasters similar to those which marked its early history⁽²²⁾.

V. He has burdened the colony with excessive taxation. During the late session of the Legislative Council he has caused a new tariff to be framed on a scale higher than that of any other British colony, except the convict establishment of Van Diemen's Land and Swan River. Compared with those of British North America, Ceylon, the Cape of Good Hope, Natal, and South Australia, it is on a scale nearly (in the last instance exactly) double that on which the tariffs in those colonies are framed. A duty of no less than 10 per cent. is imposed on all unenumerated articles, and on enumerated ones duties nearly double those of most other colonies. To add to the weight of these

duties their value is, by an ordinance passed by the present Governor, estimated at the port of entry. It was formerly estimated on the invoice. This nearly doubles in practice the amount of duty paid. These duties were imposed in a Council consisting of the Governor, eleven paid officers of Government, and four nominees, only two of the whole number having any acquaintance with commercial affairs, and one of these resigning on the ground of his objections to this ordinance.

VI. This grievance is aggravated by the wasteful and profitless expenditure of the colonial revenue. The colonists complain that year by year that expenditure has grown without reference to any greater necessity for outlay⁽²³⁾. It is wasted in the maintenance of establishments and offices not unfrequently created for the express purpose of making provision for political friends and dependents. I allude to one instance in particular, viz., the case of a Judge appointed at Otago, with a salary of £800 a year, whose sole business in the first year of his filling the office has been, not even to try a single case or a single prisoner, but only to issue letters of administration to one small intestate estate⁽²⁴⁾. The estimated revenue of the Southern Province for 1851-52 amounts to £29,735; of this, not less than £21,744 was appropriated by the nominee Legislative Council to official establishments, chiefly in the item of salary, exclusive of police, while the merely nominal amount of £950 for roads, in a province larger than England, and £1,800 for a gaol at Wellington, is all that is voted for any useful public object. The number of officials, exclusive of police, on whom this large revenue is lavished, is 118, employed in administering the Government of 17,000 Europeans and about 11,000 Natives.

VII. Whilst their resources are thus wasted, the colony is being saddled with grievous burdens of debt. Under previous administrations a debt was incurred of upwards of £50,000, which has been funded, with interest at £8 per cent. Under an Act passed in 1847, at the instance of the New Zealand Company, and without consent obtained or asked from the colony, a charge of £286,000 has been imposed upon the Land Fund, which, by the Charter and Royal Instructions of 1846, had been solemnly dedicated to the public service of the colony⁽²⁵⁾. A further burden has lately been imposed on this fund, already amounting to upwards of £60,000 (and probably involving a still larger ultimate amount, the particulars of which have not yet appeared), for the cost of pensioner emigrants, whose introduction has been effected at an enormously disproportionate cost, and which is attended with no real benefit to the colony; the colony being thus made to suffer, without the means of protest, the consequences of an unsuccessful Government experiment⁽²⁶⁾.

VIII. The last cause of complaint to which I shall advert is Governor Grey's neglect to put in force any measures for enabling the colonists to undertake their own defence. The cost to Great Britain of naval and military establishments in New Zealand has recently exceeded £200,000 a year, and cannot now be so little as half that sum⁽²⁷⁾. Notwithstanding the bribe which is thus administered to infant settlements by so great an outlay of Imperial money, the colonists (I speak at least for those of the Southern Province, whose mind I know) desire to be free from this state of dependence. The necessity of a change is self-evident, and has been long confessed. The propriety of establishing a Militia was pointed out by Lord John Russell in 1840⁽²⁸⁾. In 1844 Lord Stanley, referring to Lord John Russell's instructions, directed the enrolment of a Militia. In 1845 an ordinance was framed for the purpose by Governor Fitzroy, and received the Royal assent⁽²⁹⁾, under which the Militia was enrolled and drilled, but from that time no attempt has been made to organise or discipline a local force, except for a very short period during the Native disturbances in 1846, when a small portion of the Militia was called out, but very shortly again disbanded. Thus, the colonists are left unarmed, and untrained in the use of arms. Without military skill or discipline, unfitted to undertake their own defence, and dependent on this country for military protection, they have been compelled to barter for it their political rights⁽³⁰⁾. The time is fast approaching when this aid must be withdrawn. It is a point which the colonists earnestly desire to attain, so soon as due preparation has been made for throwing on them such a responsibility. The time might have already arrived but for the neglect hitherto to establish a Militia. But the first step to that end must be to confer on them the privileges of British subjects and the ordinary means of self-government; and that this may be done without delay, and in a *bonâ fide* manner, is the prayer which I venture earnestly and respectfully to urge on their behalf.

WILLIAM FOX.

Sub-Enclosure to Enclosure 1 in No. 5.

Appendix.

(1) I was appointed honorary Political Agent for the Wellington colonists, at one of the largest public meetings ever held in the colony, on the 15th November, 1850. (See Parliamentary Papers on New Zealand, August, 1851, page 140.) The appointment was ratified at a subsequent (equally large) public meeting on the 3rd February, 1851. I was nearly nine years in the colony, am personally acquainted with all the settlements and with all classes of colonists, having filled the offices of resident agent under the New Zealand Company at Nelson for five years, and that of their principal agent for all the settlements for three years more; I was also appointed Attorney-General of the Southern Province by Governor Grey in 1840, but resigned on learning that he intended to withhold self-government from the colony.

(2) In the course of the New Zealand debate in the House of Commons, which occurred on the 17th, 18th, and 19th June, 1845 (see a full report published in that year by Murray), Sir Robert Peel, then Prime Minister, said, "I am strongly inclined to think that representative government is suited for the condition of the people of that colony." He then proposed the introduction of municipal institutions similar to those which existed in our early North American Colonies, and quoted Burke as an authority. Lord John Russell asserted his belief "that the voice of the settlers themselves, speaking through their own representatives, could alone extricate the colony from the difficulties into which it was plunged." Earl Grey, then Lord Howick, "hoped they would revert to the ancient and wise policy of their ancestors, and allow the colonists to govern themselves. He must say that experience was decidedly in favour of allowing a colony to govern itself. We had before us a melancholy proof of the height to which misgovernment might be carried in Downing Street, and

he was persuaded that it was utterly impossible for any man, be his talents or industry what they might, to administer the affairs of the British colonies, scattered as they were all over the world." Mr. B. Hawes said, "Do what they would, they must emancipate the colony from the Colonial Office; they must lay the foundation of local government, and the colony, left as free as possible, would soon display the original energy of the parent stock. The remedy he proposed was simply this: that the colonies should have local self-government."

(3) See his despatch to Lord Grey (Parliamentary Paper, 1850, page 59), in which he describes the colony as teeming with "numerous disappointed applicants for employment, disappointed land claimants, aliens, and various persons arriving from the Pacific and other places, who, being frequently Americans, bear no attachment to the British Government, or probably to any Government whatsoever." This is stated of the colony generally, but, in reply to a petition from the Southern Province, compare it with his despatch to Mr. Gladstone (Parliamentary Paper, December, 1847, page 1), where, speaking of the southern colonists, *i.e.*, three-fourths of the inhabitants of the colony, he says, "I can have no hesitation in recording my opinion that there never was a body of settlers to whom the power of local self-government could be more wisely and judiciously entrusted than the inhabitants of the settlements to which I am alluding." No attempt to reconcile these conflicting opinions has been made by Governor Grey.

(4) The neglect to establish proper communication between the settlements is one of the complaints made against Governor Grey by the colonists. They allege that the parliamentary grants made chiefly for this purpose have been wastefully expended without attaining the end proposed. (See Resolution 7, Parliamentary Paper, August, 1850, page 48, and Resolution 6, *ibid*, page 47.) But the great omission is the non-establishment of steam communication by sea between the settlements. This Governor Grey has repeatedly promised during his canvass for nominees and at other times; but he has done nothing towards it, except asking the Home Government for a grant of Imperial money, which, of course, was refused, the local revenue, if properly expended, being ample for this and every other purpose. To what an extent the want of communication is felt may be judged from the fact that in July last the Nelson settlement was without news from Wellington (only 150 miles distant) for three months, while the Council was sitting at the latter place making laws affecting the former. News was ultimately received by way of Sydney, having gone 2,400 miles round. (See *Nelson Examiner* of July, 1851.) On one occasion the Lieutenant-Governor at Wellington sent despatches to Auckland by way of Sydney; and I have myself been five months in receiving at Nelson a reply to a letter from Auckland, which was sent by return of post. According to Governor Grey's own statement it takes as long to send a letter from Auckland to Wellington as from London to the West Indies or South America; which he nevertheless calls a communication of the most regular and satisfactory kind. (See Parliamentary Paper, August, 1851, page 8.)

(5) See Governor Grey to Lord Grey (Parliamentary Papers, New Zealand, 1850, page 59, and August, 1851, No. 63, page 136); and see this argument refuted at length in documents proceeding from the colonists (Parliamentary Papers, August, 1850, page 49, and August, 1851, page 90, &c.), and note (18) post. No answer to the colonists on this head has ever been attempted by the Governor.

(6) 11 Vict., c. 5, s. 4. See also Lord Grey's Despatch of 18th March, 1848.

(7) Governor Grey to Lord Grey, 13th May, 1847. (Parliamentary Papers, 1847, page 43.)

(8) Evidence of the unanimous opposition of the colonists towards this measure is to be found in the despatch of Lieutenant-Governor Eyre to Governor Grey (Parliamentary Paper, August, 1851, page 37). "The present form of Council," he says, "is so unpopular, and daily becoming more so, that there is little probability of the Government being able to induce any gentleman of sufficient character, standing, and ability to join it, the prevailing impression amongst the best educated and most respectable portion of the community being that it would neither reflect credit upon themselves nor enable them to serve the public usefully by becoming members of a Legislature which is so distasteful to the public generally." Yet Governor Grey had, on forming this Council, not hesitated to declare to Her Majesty's Government that he had the concurrence "of a large portion of the most intelligent members of the community." (Parliamentary Papers, 1850, page 22.) I may add that a petition to Parliament against these Councils, signed by 800 out of 1,200 male adults, including nearly all the most respectable colonists, was sent Home from Wellington within a few weeks of their establishment.

(9) For a statement of the means by which Governor Grey at last succeeded in forming a Council, and the difficulties he encountered in doing so, see Resolution 3, at page 46 of Parliamentary Papers, August, 1850, the correctness of which is not denied by him in his comments on the document there printed.

(10) The Lieutenant-Governor, having waited till almost the commencement of a new financial year, when the session of Council could no longer be constitutionally postponed, summoned it for despatch of business, informing Governor Grey, who was in Auckland, by letter, of his reasons for doing so. Governor Grey directed him to postpone the session, on the ground that he hoped shortly to hear from Her Majesty's Government on the subject of the future form of Government. Several of the nominee members, considering themselves thus made of no account, resigned, respecting which correspondence will be found in the Parliamentary Papers, 7th August, 1851, page 342, &c. Governor Grey, in his despatch commenting on the predicament in which the Government was placed by this step, lays the blame on Lieutenant-Governor Eyre, a view which Lord Grey adopts in his reply printed at page 194 of the same papers. How far Mr. Eyre was to be blamed may be judged from the ground on which Lord Grey censures him: his Lordship distinctly states that he would have been excusable "if, among the subjects for which he proposed to call the Legislature together, he had mentioned a Supply Ordinance." Yet, on turning to Mr. Eyre's letter, at page 35, it appears that the necessity of passing an "Appropriation Ordinance" (the same thing as a Supply Ordinance) is the very reason assigned by him.

(11) When last summoned at Wellington, in June, 1851, it consisted of the Governor-in-Chief, Lieutenant-Governor, two Colonial Secretaries, two Attorney-Generals, two Land Commissioners, the Commander of Her Majesty's Forces in the Southern Province, the Treasurer and Collector of that province, and four private colonists nominated by the Governor, one of whom resigned during the

session, altogether eleven salaried officers of Government and four unofficial nominees. It was this Council through which he has passed the Provincial Councils Bill which he now seeks to induce Her Majesty's Government to adopt.

(12) At Wellington, the 15th November, 1850, one of the largest public meetings ever held in the colony, attended by between five and six hundred adult males, unanimously resolved to reject the measure, pledging themselves "to resist its introduction by every constitutional means." (Parliamentary Papers, August, 1851, page 139.) In February 1851, at a similar meeting at the same place, the colonists adopted suggestions of a form of Government fundamentally different from Governor Grey's. (*Ibid*, page 161.) At Nelson, after two months' discussion at district meetings, two general meetings were held, one of which lasted thirteen hours, when Governor Grey's measure was again rejected by an immense majority. (*Ibid*, page 111.) At Canterbury, in August, 1851, two very numerous meetings were held, at which the measure was unanimously condemned as "not giving the colonists any real or efficient management of their own affairs or control of their own revenue." (*Lyttelton Times* of 16th and 23rd August, 1851, and *New Zealand Journal* [London], 3rd January, 1852.) At Otago, on the 13th May, 1851, resolutions approving of the principles the reverse of those of Governor Grey's measure were adopted. (See *Otago Witness* of that date.) At Auckland, in October, 1850, one of the most numerous meetings ever there held adopted a memorial to the Home Government condemning the measure, which, however, is not printed among the Parliamentary Papers.

(13) A thorough investigation of this most important case involves reference to a vast number of despatches. They will be found in the Parliamentary Papers of June, 1847, pages 7, 21, 22, 27, 30, 32, 47, 64, 66, 69, 70; December, 1847, pages 26, 29, 30, 35, 64; 1850, page 115; and August, 1850, pages 1 to 15. The course pursued on the subject by the Government has been most inconsistent. The grants in question were described by Governor Grey as based upon transactions altogether illegal, in which he was borne out by a judgment of the Supreme Court. They were stated by him to involve claims to excessive quantities of land, the Native title to which, in many cases, had not been extinguished or even ascertained; in others, the boundaries were uncertain and likely to lead to litigation; in many cases they involved bad faith, were opposed to the wishes of a large majority of the inhabitants of the colony, Native and European, and were likely to lead to a war with the former. Lord Grey described them as impolitic and lavish; in many instances injurious to our national character and the Christian faith, and the result of an extremely inconvenient disregard of law. He also expressed his earnest desire to dispossess the grantees wherever not supported by the strict letter of the law; threatened to dismiss from the public service any officials who should not cordially co-operate with the Governor in his attempt to set them aside, and approved of his carrying the question into the Courts of law. Yet, after all this, on an adverse decision of the colonial Courts upon a case improperly framed, Governor Grey, without waiting to carry so important a case before a higher tribunal, which it is now understood has actually reversed the decision of the colonial Courts, passed the ordinance referred to (believed to be itself illegal) to confirm the grants which were open to so many and such grave objections, admitting, while he did so, that the result would probably be to stop all land sales in the Northern Province, to prevent any immigration to it for a long time, and probably to give rise to serious disputes with Natives, some of which appear already to have commenced.

(14) See a full statement of this very instructive case in a despatch from the principal agent of the New Zealand Company to the secretary of that body, printed at page 34 of Parliamentary Papers, relating to the surrender of their charters by the New Zealand Company, 22nd July, 1851, and see the colonial ordinance prohibiting dealing with the Natives for land, Session VII., No. 19.

(15) The illegality of this transaction is admitted by Lord Grey (Parliamentary Papers, July, 1849, page 106), but the arbitrary character of the Act and its impolicy are passed over without notice, and the course adopted is approved, notwithstanding the strong and reasonable remonstrance of the colonists, printed at page 15 of the same papers.

(16) In alluding to this instance of arbitrary conduct I have no desire to impute personal misconduct to Governor Grey, nor to discuss the policy of this act I refer to it as evidence of the unconstitutional manner in which things are done where the control of self-government does not exist, and as proof of the unsatisfactory tenure under which British subjects possess their liberties in colonies when free institutions are withheld. The following are the particulars of one of the instances referred to: Martial law had been proclaimed in a district (Wanganui) in which Native disturbances had some short time before been anticipated, but there was no actual rebellion, and probably there would not have been any but for the act about to be related; indeed, affairs were so far pacific that it seems that martial law was about to be immediately abolished. (See Captain Laye's letter referred to below.) Four Natives (British subjects), to avenge a mere private and accidental injury, committed a murder, which in all its circumstances was a mere private crime, having no political aspect, nor in any way arising out of acts directed against the authorities. They were seized, tried by a court-martial, and hung. (Captain Laye's letter, Parliamentary Paper, December, 1847 (page 55, and Governor Grey's despatch at page 59.) As a natural consequence their tribe retaliated by taking arms against the Government, and a long war, in which many lives were lost on both sides, involving much expense, was the result. Had the alleged murderers been handed over, as they should have been, to the regular tribunals of justice, it is probable that the other Natives would have acquiesced, and rebellion would have been avoided. That such was the proper course is admitted by Governor Grey himself. (Parliamentary Papers, December, 1847, page 55.) It is more than questionable whether a colonial Governor can, under any circumstances, legally proclaim martial law. It has, however, been done repeatedly by Governor Grey without the previous sanction of the Colonial Legislature, though ultimately an ordinance to indemnify all parties concerned was passed by the nominee Council, of which Governor Grey and his responsible advisers were the majority of members—an admission of the illegality of the acts to which the ordinance was intended to apply.

(17) The Royal Instructions of the 5th December, 1840, expressly prohibit the Governor from "proposing or assenting to any ordinance whereby any Government paper currency may be established,

or whereby any such paper currency may be made legal tender, without special permission from Us in that behalf first obtained." (Parliamentary Papers, May, 1841, page 36, paragraph 14.) Such permission, it is admitted, can only be given by Letters Patent, or under the Sign-Manual, or by Order in Council, of which there is no trace to be found in the Parliamentary Papers. But, supposing that such permission could be dispensed with, or can be discovered among official records, there is no doubt of Governor Grey's neglect to carry out the subsequent instructions received by him. The very important suggestions of the Lords of the Treasury, which Governor Grey is directed by Lord Grey to adopt as amendments of the ordinance passed by him, and which he has hitherto neglected to adopt, are: 1st, that the investment of the funds of the bank should be made in public securities of the Home country, for the express purpose of preventing the Governor from turning it into a loan bank; 2nd, the investment in such securities of one-half or at least one-third, instead of only one-fourth, of the capital; 3rd, certain provisions to prevent the irregular circulation of foreign coin, and the liquidation in such coin of the bank's liabilities; and, 4th, greater security in the matter of sureties for officers of the bank. (See Parliamentary Papers in continuation of those of December, 1847, and February, 1848, page 182.) These important amendments had not been introduced by Governor Grey when I left the colony, though one session of his General Council had elapsed since their receipt by him, nor, as far as can be ascertained from the reports in the local papers of the session of Council since held, has this important matter been in any way adverted to. The confidence of the colonists in the local Government as a guardian of public money was not increased by a circumstance which had transpired respecting the Intestate Estates Fund, as stated in Resolution 6 of the Settlers' Constitutional Association, printed in Parliamentary Papers, August, 1851, page 80. A far from successful attempt to impugn the correctness of that statement is made by the local Government at page 78 of the same papers, but, when examined, it amounts to nothing. The Treasurer, being called upon, meets the charge by an *a priori* argument, "that the usual financial position of the Government is not such as to lead to the improper appropriation of such a sum of money;" The Lieutenant-Governor says that he can only say "that no such appropriation was made by his authority or directions, or with his consent or knowledge;" while the Governor-in-Chief takes issue on a collateral and unimportant point. Not one of them denies the fact of the appropriation of the money; nor could they, as I know that the statements in the resolution were substantially quite correct.

(¹⁸) Without imputing to Governor Grey a deliberate intention to sow the seeds of dissension and jealousy between the races, it is beyond doubt that the tendency of many of his acts has been such. His ungenerous allusions to the colonists "as persons who entertain no regard for the Natives or their interests;" his prediction (too likely perhaps to be the cause of its own fulfilment) that the colonists if intrusted with self-government would "arouse the Natives and bring on a war;" his continual appeals to Native testimonials in opposition to the censure of the colonists; indicate strongly the bent of his mind in reference to the two races, the inclination to regard the one with friendly and the other with unfriendly feelings. (See his despatches in Parliamentary Papers, 1850, page 59; *ibid.*, August, 1851, page 136; and *passim*, since the question of self-government has formed the subject of his despatches, beginning with that in Parliamentary Papers, December, 1847, page 42.) That the hints thrown out have not been lost on the Natives is evident, from repeated passages in the Parliamentary Papers, where it appears that the Natives have been taught to believe that their interests and those of Governor Grey are identical, and that to bestow powers of self-government on the colonists will be attended with injury to the Natives. (See particularly E Puni's letter and Governor Grey's comments, Parliamentary Papers, August, 1851, page 136, the memorial of the Waikanae Natives at page 141, and that of the Ngauranga Natives at page 142.) No one acquainted with the total ignorance of the Natives on all political subjects can believe for a moment (certainly no one in the colony believes) these documents to be the unprompted effusion of their own minds; but, in whatever way they may have originated, the result is too evident to admit of a doubt, and the eagerness with which Governor Grey appeals to them is very significant.

(¹⁹) See the colonists' repudiation of Governor Grey's insinuations on this head, in Parliamentary Paper, August, 1850, page 49; and Parliamentary Papers, August, 1851, pages 90 to 93.

(²⁰) See the particular complaint of Tomati Ngapora to this effect, Parliamentary Papers, 1849, page 19.

(²¹) Governor Grey himself incautiously admits how little has been done (Parliamentary Papers, August, 1851, page 57), but the real evidence of the narrowness of the limits to which the efforts of the Government have been confined is to be found in the repeated parade of the same scanty materials of display. The reports of four small hospitals, exhibited from quarter to quarter, a few returns of cases referred by Natives to the Resident Magistrates, and frequent letters from Natives laudatory of Governor Grey, being nearly the sum total that is to be found in the Parliamentary Papers; and even these documents, if examined, are less material than they look. Thus, in a report from the Resident Magistrate at Wellington, he parades the number of cases in which, as he says, Natives only were parties, as a proof of the esteem in which his Court is held by them. On looking at the appended return, which extends over three months, we find exactly one case (Parliamentary Paper on Colonial Possessions, 1845, page 435), and in another quarterly report we find exactly two cases (Parliamentary Papers, August, 1851, page 134). The letters of the Natives sometimes afford indications of the real quality of the material which is used to exhibit them in a favourable contrast to the Europeans. The letters of John Heke and his wife (Parliamentary Paper, August, 1861, page 30), followed by the explanation contained in that of Pene Tani, at page 33, are an amusing instance.

(²²) See the case of the Wairarapa, referred to in note (¹⁴).

(²³) Resolution 6, Parliamentary Papers, August, 1850, page 47, and Resolution 12, page 51. In 1842 the amount of the Wellington revenue was £10,906, the population about 4,000, and the expenditure £3,476, the balance, it is believed, being expended in the Northern Province. In 1848 the revenue was £12,472, the population 4,758, and the expenditure above £16,000. (See "Statistics of New Munster," published by the local Government, 1849.) In 1846 Governor Grey proposed the appointment of a Lieutenant-Governor for the Southern Province, and pledged himself if one were

appointed "judiciously to curtail the cost of Government." The expenditure for local revenue in that year amounted to £7,628; a Lieutenant-Governor was appointed, and the expenditure for local revenue now amounts to above £16,627. The following table shows the result:—

Year.	Population.	Revenue.	Expenditure.
1842	3,950	£10,906	£3,476
1848	4,758	12,472	16,000
1846, before Lieutenant-Governor	7,628
1851, after Lieutenant-Governor	16,627

(²⁴) See the remonstrances of the Otago colonists, Parliamentary Paper, August, 1861, page 213. The statement of the amount of business transacted by the Judge in his first year is from a report of the first session of the Court in a late local paper. The Otago Judgeship is, perhaps, the grossest instance of misplaced patronage which has occurred in the colony; but it by no means stands alone; one or two, out of many similar cases, may be alluded to. The conversion into a separate office of the Registrarship of Deeds at Auckland, previously held jointly with the Registrarship of the Supreme Court, for one salary (neither office being onerous), and the appointment to it of an old military friend of the Governor's, with a good salary, and a clerk to do the business, was one instance. The creation of the Civil Secretaryship at Auckland, bestowed upon a southern colonist who was a zealous supporter of the cause of self-government, just when the Governor was about to withhold the Constitution of 1846, the subsequent amalgamation of that office with one held by another party when the Civil Secretary wished to return to the south, and the creation of another new office in the south, and its bestowal upon him, followed by his acceptance of a seat in the nominee Council, has created great dissatisfaction in the colony. The conversion of the Nelson Resident Magistracy into a Superintendency, the salary being raised from £250 to £500 a year, while the duties remained precisely the same as before, for the avowed purpose of providing for Major Richmond, who was displaced from the Wellington Superintendency by its conversion into a Lieutenant-Governorship, was a third flagrant instance of an unnecessary appropriation of the revenue for the purposes of private patronage. Many more might be adduced, but the tendency of despotic Governments to purchase support by patronage is too well known to require further illustration.

(²⁵) In admitting a claim on behalf of the company to indemnification, Lord Grey expressly states the company's claim to be against Her Majesty's Government, and he proceeds to state that the "enterprising settlers have suffered injuries more to be deplored even than those to which the company has been subjected." (Parliamentary Papers, June, 1847, page 108.) It seems a curious method of compensating the company to make the "enterprising settlers" pay the damages due from Her Majesty's Government out of the Land Fund of the colony. That that fund is in the nature of a trust for promoting emigration, and for local purposes, see Lord Grey's despatch, 23rd December, 1846, Parliamentary Paper, August, 1846, page 70, where, speaking of the Land Fund, he says "The Crown receives the money only as a trustee for the public. . . . The power of the Crown over these lands should never be employed for any purpose of patronage, influence, or favouritism. . . . The first application of the land revenue should be towards defraying the expenses incident to the administration of the Crown Lands Department. The surplus should be applied towards the introduction of manual labourers from this country, unless when the exigencies of the public service may render the application of it to other local purposes indispensable." But see most particularly the Royal Instructions issued under Lord Grey's advice in 1846, by which it is expressly declared that the proceeds of all demesne lands sold in the colony shall be held by the Crown "in trust for defraying the cost of introducing emigrants from the United Kingdom, or in trust for defraying the cost of such other public services therein as shall from time to time be prescribed" by Royal Instructions. Surely this precludes the appropriation of the fund to the payment of damages to a third party claimed for past injuries inflicted by Her Majesty's Government.

(²⁶) That the experiment has been eminently unsuccessful is evident from the return in Parliamentary Paper, August, 1850, page 140, and the report in Parliamentary Paper, August, 1851, page 144, though, in both instances, an attempt is made by Governor Grey, in his despatches covering those documents, to make it appear that the result of the experiment is satisfactory. It is equally a failure whether regarded in a colonizing or a military aspect. In the former case we have less than 1,700 emigrants, including women and children, introduced at a local cost of £59,000, in addition to the expense of their passage to the colony; this is at the rate of £35 a head, including women, children, and infants, expended by Government after their arrival in the colony. Their houses alone cost £80 per man. "Many of them," says Staff-Surgeon Bacot in his official report, "are of such advanced age and infirmities as to be unfit either for labour or for military duty." At the end of their first year, though their houses were built for them, their pensions continued, and regular wages paid them, they had cultivated less than a quarter of an acre per pensioner, while a few head of cattle, which are paraded in the first return, appear to have been all, or nearly all, bought for them by Government at a cost of upwards of £800. If we examine the experiment in a military aspect it is equally a failure. What is the military value of a force "many of whom are of such advanced age and infirmities as to be unfit either for labour or military duty?" On one occasion their efficiency has been tested. In April last a large force of armed Natives entered the Town of Auckland very early in the morning with hostile intentions; it was 3 o'clock in the afternoon before the pensioners could be got together and brought into town, while its inhabitants for nearly nine hours would have been at the mercy of the Natives but for the presence of the regular forces stationed in it. This fact is stated in the Auckland newspapers of that date. A careful examination of the official documents above referred to can lead to no other conclusion than that, either way, the experiment has been a costly failure, of having to pay for which the colonists may well complain.

(²⁷) This is believed to be very much under the actual amount, but no complete returns appear to have been published. It is known from the colonial returns that the annual cost of each of the two regiments maintained in the colony was, down to 1850, nearly £60,000. In addition to this there have been two or three men-of-war, and for a long time an armed steamer. Very extensive barracks, which cannot have cost altogether less than £100,000, have been built in various parts of the Island.

(28) Parliamentary Paper, May, 1841, pages 23 and 28. Lord Stanley, under date of the 11th March, 1844, refers to a recommendation to the same effect given by Lord Normanby as early as 1840.

(29) Parliamentary Papers, August, 1845, pages 5 and 8.

(30) See the unprotected state of the colonists, and their present inability to protect themselves, admitted by Governor Grey in Parliamentary Paper, "Reports on Colonial Possessions," 1849, page 423, paragraphs 3 to 9, and Parliamentary Paper, August, 1851, page 56, paragraph 5. In the latter passage he appears to consider that the safety of the colonists will depend entirely on the forbearance of the Natives, whenever the Imperial forces are removed. WILLIAM FOX.

Enclosure 2 in No. 5.

MINUTE relating to the Course pursued by His Excellency Governor GREY, in reference to the INTRODUCTION of FREE INSTITUTIONS.

1. ON the 15th November, 1850, being about to leave New Zealand for England, I was appointed Honorary Political Agent for the settlement of Wellington. The appointment was made unanimously at one of the largest public meetings ever held in the colony, and was ratified at a subsequent meeting held about three months afterwards. The object of my appointment was that I might put Her Majesty's Government and the English public in possession of the views and of the earnest wishes of the colonists on the subject of a constitution of self-government, which they have been led to believe is shortly to be bestowed upon them.

2. On my arrival in this country, in June last, I found that no measure for the purpose was before Parliament, and was advised that it was too late to move in the matter during the current session, I therefore satisfied myself by forwarding to Her Majesty's Principal Secretary of State for the Colonies my address and certain documents with which I had been intrusted by the colonists, the receipt of which was acknowledged.

3. The time seems now to have arrived when it is my duty, on behalf of the colonists whom I represent, again to request the attention of Her Majesty's Government to the subject; and I propose, in this memorandum, briefly to state the leading facts of the case as they would be represented by the colonists themselves had they the opportunity of personal communication with the Home Government. In so doing it will be necessary that I should advert principally to matters with which Her Majesty's Government is probably already acquainted; but, as the effect of facts depends very much upon the manner in which they are related, and as the accounts of what has been going on in New Zealand have been received chiefly through the Governor of the colony, it may not be inexpedient that Her Majesty's Government should be made acquainted also with the colonists' version of them, and with their opinions upon them.

4. Down to the end of 1848 the colony was governed exclusively under the charter of 1840, the legislative power being vested in the Governor-in-Chief, and a Council consisting of three of his principal executive officers, and three unofficial nominees. In 1848, under the provisions of the Suspension Act, 11 Vict., c. 5, a local ordinance was passed for the creation of Provincial Councils, one to subsist in each province, in addition to the General Council existing under the charter of 1840, and having distinct and more purely local functions. The members of these Provincial Councils were to be entirely paid officials and nominees of the Governor. The Councils proved exceedingly distasteful to the colonists. In January, 1849, the Provincial Council of the Southern Province was formed and summoned. The Governor reported to the Home Government that this Council had been satisfactorily formed, and intimated that "he had the concurrence of a large portion of the most intelligent members of the community." This statement cannot be reconciled with facts. His Excellency had, in the course of an untiring personal canvass of several weeks' duration, encountered the greatest possible difficulty in obtaining nominees, meeting with repeated refusals from a large proportion of leading colonists; and perhaps no institution was ever more unpopular in any community than the Council so formed by him. For this fact there is the authority of his Excellency Lieutenant-Governor Eyre, who states, in an official despatch dated the 24th August, 1850, "that the present form of Council is so unpopular, and daily becoming more so, that there is little probability of the Government being able to induce any gentleman of sufficient character, standing, and ability to join in it; the prevailing impression among the best educated and more respectable portion of the community being that it would neither reflect credit upon themselves, nor enable them to serve the public usefully by becoming members of a Legislature which is so distasteful to the public generally." And again, during the recent session of the General Council at Wellington (in April, 1851), his Excellency the Lieutenant-Governor repeated the same opinion; stating that the feeling against nominees "was so general and so strong as latterly to have prevented the Government from getting together a Provincial Council at all." In addition to which statements of so high an authority there is the fact that six out of the nine nominees, after one session's experience, resigned their offices, dissatisfied with the position in which they found themselves and the treatment to which they were subjected; while Mr. Eyre (as above) declares it to be impossible to find anybody else in the province to fill their places. There is also the statement of the colonists to the same effect and in detail in the resolutions of the Settlers' Constitutional Association, printed in the Parliamentary Papers of August, 1850, page 45, to which the Governor in his strictures on that document has ventured to offer no reply, nor even made any comment. Scarcely any other conclusion can be arrived at on the above evidence than that Her Majesty's Government was altogether misinformed by Governor Grey when he asserted that his plans and views were concurred in "by a large portion of the most intelligent members of the community," and when he concealed the great difficulties he had encountered in forming a Council and its extreme unpopularity when formed. Indeed, so complete a failure was the Provincial Council of the Southern Province, that His Excellency Governor Grey did not attempt to form one in the Northern, but has provided for the provincial legislation there (as he has since done in the Southern Province also) by means of his General Legislative Council, a body over which he has more complete control, but whose constitution and legitimate functions differ entirely from those of the Provincial Councils; and whose proceedings appear in consequence to be in many important particulars (among others, the appropriation of the revenue) informal and altogether illegal.

5. I have alluded to these past transactions in the hope that a consideration of them may open the eyes of Her Majesty's Government to the character of Governor Grey's proceedings, and may induce it to pause before sanctioning his attempt to force on the colony his more recent measure, which professes to be a constitution of self-government, but which the colonists regard in an entirely different light, and to which an overwhelming majority of them are opposed.

6. The general aim of all Sir George Grey's despatches on this subject is to induce Her Majesty's Government to think that the measure proposed by him is one which can be carried out with the general approbation of the colonists. "I think," he says, "that the Government will be able, without difficulty, to carry out the line of policy which I have recommended;" and again he states "that he has not from any portion of the colony heard any material objections raised to the proposed form of Constitution." At the date of the last statement he had, it is true, not received all of the documents expressing disapprobation since transmitted, but some of them he had then received; and as he has not since the receipt of the others retracted his expressions of confidence—he must be understood as still intimating that the majority of the colonists are satisfied, and that he is capable of carrying-out the measure.

7. How far from the truth such an expectation is will be gathered from the documents and facts to which I now respectfully call attention.

8. His Excellency Governor Grey produced his measure at Auckland and Wellington in October and November, 1850, and he intimated his intention of shortly bringing it into operation. The following is the manner in which it has been received by the colonists: At Wellington, on the 15th November, 1850, one of the largest public meetings ever held in the colony, attended by between five and six hundred male adults, unanimously resolved to "reject the measure," and pledged itself "to resist its introduction by every constitutional means." Another meeting, equally numerous, was held at the same place three months afterwards, 3rd February, 1851, when, though every exertion to prevent it was made by the Government party, the resolution was confirmed by a majority of at least nine to ten, and a report of a committee was adopted, suggesting a form of government fundamentally different from Sir George Grey's. At Nelson, after two months' discussion at district meetings, two general meetings were held, both most numerous attended, one of which lasted from noon till past midnight. Sir George's measure was again rejected by an immense majority, and, as at Wellington, suggestions of a form of government entirely different were adopted. At Auckland one of the largest public meetings ever there held condemned Sir George's measure almost unanimously, and a memorial emanating from it to the Home Government was most numerous signed, which cannot be further referred to because it is not printed with the other documents among the recent Parliamentary Papers. At Canterbury, in August last, two most numerous meetings were held: one at the port town of Lyttelton, the other at the rural town of Christchurch; at both Sir George's measure was unanimously condemned as not being a measure of self-government, "and as not giving the colonists any real or efficient management of their own affairs or control over their own revenue." At Otago, on the 13th May last, resolutions approving of principles the reverse of those on which Sir George Grey's measure is founded were, as appears from the local papers, passed unanimously.

9. But the evidence which will perhaps weigh most is that of His Excellency Lieutenant-Governor Eyre, the head of the local government in the Southern Province. Having four out of the six settlements in his charge, residing there, and having frequent personal intercourse with the colonists (while Sir George Grey had not been in that province for twenty-two months previously to his late visit), His Excellency must be regarded as an excellent authority as to the sentiments of the colonists, at least when expressing an opinion so distasteful to the Governor-in-Chief, and so much opposed to that which he must have known the latter had expressed to your Lordship. I enclose a copy of the local paper, containing a report of the proceedings in the Legislative Council, in the course of which His Excellency the Lieutenant-Governor so expressed himself. He asserted, without any circumlocution, his decided opinion that the measure would prove unacceptable to the colonists. "So strong and general," he says, "is the feeling against it, that he doubts whether the Governor will be able to get a Council together under its provisions, and thinks it very probable that the measure will thus be defeated" (as, he observes, Sir George Grey's previous measure was) "though it might be passed and become law."

10. Among the Parliamentary Papers lately published there are three documents apparently in favour of Sir George's plan, but only one of them is so in reality. The first is a sort of counter-memorial from Nelson, not resulting from a public meeting, and on examining it it will be seen that it, equally with that of the other party, condemns Sir George Grey's system of Provincial Government, and only differs from the memorial of the other party on certain points of detail recommended by them, such as vote by ballot, &c. The second is a resolution of the Otago colonists, approving Sir George's measure, but evidently passed under a misapprehension of its nature, and on an assurance from him that it could and should be applied to their settlement in a municipal form, which, however, it is hardly necessary to state it neither will nor can be; while at a later date there are in the local papers resolutions of another meeting at the same place opposed to Sir George's plan. The third document is the only one really approving of Sir George's measure; it is the Wellington memorial, at page 143. Parliamentary Paper, August, 1851; it is signed by 254 persons in a community numbering at least 1,500 male adults. The whole who have not signed it, say 1,250 male adults, concur, there is good reason to believe (with the exception of the officials), in condemning Sir George's measure. Their signatures were not sought because it was considered that the almost unanimous decision of the two largest public meetings ever held in the settlement, vouched by the signature of the chairman, was sufficient. That at the seat of Government, and under the immediate influence of the Government authorities, no greater number than one-sixth of the male adults could be found to support His Excellency is convincing proof of the unpopularity of his measure. It may be necessary to observe that the Settlers' Constitutional Association, from which some of the recently-published documents emanate, is the mouthpiece of the great bulk of the colonists, and represents the opinions of at least four-fifths of the inhabitants; it enrolls among its members all the unsalaried civilian Justices of the Peace, with one or two exceptions, and a very large majority of the oldest, wealthiest, and most respectable colonists. On one occasion, when

it was considered expedient to obtain signatures to a document emanating from it on the question of self-government, it was signed in a few days by upwards of 800 adult males, when the total of that class in the settlement did not exceed 1,200.

11. The evidence above referred to does, it is submitted, prove incontestably the repugnance entertained by the colonists to Sir George Grey's proposed Constitution, and that under the circumstances some decided course of action, independent of his opinion, ought to be pursued. In 1847 the colonists were led to expect the immediate bestowal of self-government by the measure which then received the sanction of Parliament. Within six months their hopes were frustrated by the Suspension Act, and they were remitted to the institutions under the old charter of 1840. In another year there was forced upon them, against their almost unanimous remonstrance, Sir George Grey's Provincial Council measure, which, after one session, broke down, in consequence of the opposition of the colonists and its inherent defects. They are now again threatened with the imposition, against their express and almost unanimous wish, of another Constitution (and that intended to be permanent), framed by Governor Grey, without consulting them, and which it is certain can never be successfully brought into operation against their desire.

12. The chief difference between Sir George Grey's proposed Constitution and that which the colonists desire is one of fundamental principle. He proposes to extend the provincial form of Government at present existing, which is a costly and cumbrous system of centralisation; and he expressly intimates his intention of gradually rendering it still more centralised by the absorption of such local powers as he may at first bestow. The colonists, on the other hand, desire institutions truly municipal, in the sense in which the word was used by the late Sir Robert Peel, when Prime Minister, in the debates on New Zealand in 1845; and, instead of their becoming more and more centralised, they wish to see them more and more localised, as in the progress of the colony local interests become more marked and separate. Besides which, there are various important points on which they are at total variance, such as the element of nomineeism, the Civil list, the extent of the veto of the Home Government, and others.

WILLIAM FOX,

Honorary Political Agent of the Colonists of Wellington.

No. 6.

F. PEEL, Esq., to W. Fox, Esq.

SIR,—

Downing Street, 5th February, 1852.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 24th instant, together with the papers which accompanied it, on the subject of the present state of affairs in New Zealand.

I am, &c.,
F. PEEL.