

1891.
NEW ZEALAND.

FURTHER DESPATCHES

FROM THE GOVERNOR OF NEW ZEALAND TO THE SECRETARY OF STATE.

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

(No. 3.)

MY LORD,—

Government House, Wellington, 23rd January, 1891.

I have the honour to inform your Lordship that, acting on the advice of my Ministers, I have summoned the following gentlemen to the Legislative Council of New Zealand—viz., Mr. John Blair Whyte, Auckland; Mr. Francis John Davies Ormond, Hawke's Bay; Mr. Charles John Johnston, Wellington; Mr. Charles Christopher Bowen, Canterbury; and Messrs. James Fulton and William Downie Stewart, Otago.

No fresh appointments have been made to this body since the year 1887—in fact, since the present Ministry have been in office. On the other hand, several deaths and resignations have taken place, reducing the number of Councillors from forty-eight, at which it stood on the 8th of October, 1887, to thirty-nine to-day, and of these it may safely be said that, from extreme age, absence from the colony, and other reasons, the effective strength barely exceeds thirty.

My Ministers have repeatedly expressed their desire to effect a reform in the Council, to reduce the period of service to seven years instead of life, and to limit the numbers to one-half of those in the House of Representatives. At the same time they considered it to be essential that the whole of the Assembly should be able, willing, and efficient for the performance of their duties.

In 1887 they introduced a Bill with this object, but it was discharged before it reached the second reading.

Last session a Bill embodying the principles declared to be those entertained by the Government was introduced by a private member into the Legislative Council, was amended by the Attorney-General to meet the views of the Government, and cordially supported by the Government in the Council, but was rejected by that body; and, in the face of that opinion, my Ministers concluded that it would be futile themselves to submit to Parliament a measure on similar lines.

My Ministers refrained from offering me any advice as to strengthening the Council before the expiration of the Parliament and the general election.

The result of that election has been, as I apprised your Lordship in my Despatch No. 62, of the 18th December, 1890, to make a great change in the *personnel* of the House of Representatives, and, in the uncertainty as to the political views of the new members, I have, as I have already informed your Lordship, summoned Parliament to meet at the earliest convenient date.

I had before me the statement of Ministers that it was necessary to summon Parliament in order that they might ascertain the feelings of confidence towards them entertained by the new representatives of the people, and I therefore

hesitated before accepting their advice to make these appointments. I thought it my duty to demand from them an assurance that the advice was tendered less with a view to reward party services, than for the purposes of strengthening the efficiency of the Upper House. That assurance has been given me, and I have therefore accepted their advice.

Petitions numerous signed have been presented to me requesting me to defer these appointments till after the meeting of Parliament. It is urged in them: 1. That the present Ministry are in a minority; 2. That Sir H. A. Atkinson has pledged himself not to advise fresh appointments till the numbers were reduced below one-half of those constituting the House of Representatives; 3. That the Legislative Councillors now exceed by three or four half the number of the House of Representatives.

I gave due consideration to these representations, and to the spirit in which I believe Her Majesty's Government regard the position of colonies possessing representative Government. I trust that I interpret those views aright in holding that, where there is nothing to the contrary in the Letters Patent of the 21st February, 1879, constituting my office, or in the Royal Instructions accompanying them, the constitutional practice observed in England should form the main lines for guidance under similar circumstances. I therefore dismissed the first reason without waiting to inquire as to its accuracy.

Upon the second argument, I received the memorandum which I enclose, from Sir H. A. Atkinson, and which appeared to me to be satisfactory; and as to the third, I would point out to your Lordship that though true of the nominal it is not true of the effective strength of the Legislative Council; that the House of Representatives has but just been reduced from ninety-five to seventy-four members, while it has not been found possible to effect any reform of the Upper House.

Had it been proposed to me to make fresh creations to the extent of say one-third of the existing House, I should have had grave hesitation in accepting advice which might be treated as a precedent for swamping the votes of the existing majority in order to carry party legislation.

It has, however, long been the practice in England for Ministers, even after a vote of censure has been passed on them in Parliament, to advise the Crown to create a limited number of peerages, not only for the purpose of strengthening the Upper House but admittedly as rewards to those who, being qualified for the position of Peers, have rendered political services to the defeated party.

It is the fact that in 1877, when a vote of want of confidence was pending, Lord Normanby declined to accept advice as to an appointment until the result of the vote was known, but, on the vote being rejected, acted on the nomination of Sir George Grey, the Premier. On the other hand, in 1869, a vote of want of confidence was moved on the 15th June, in Sir Edward Stafford's Ministry, and carried on the 24th June; but on the 17th, the Governor, while the debate was pending, accepted his Ministers' advice to raise Messrs. Paterson and Pharazyn to the Council, and on the 25th also accepted their advice to call Mr. Levin to that body.

Although Lord Carnarvon in his Despatch No. 7, of the 15th January, 1878, approves generally of Lord Normanby's conduct in the first-mentioned case, I trust your Lordship will approve of the action which under somewhat different circumstances I have thought it my duty to take.

The Right Hon. Lord Knutsford, &c.

I have, &c.,
ONSLOW.

Enclosure 1.

MEMORANDUM for the Hon. the PREMIER.

17th January, 1891.

THE Governor has received the accompanying petition respecting any further appointments to the Legislative Council. Should the Premier contemplate offering any advice to the Governor, such as the petitioners deprecate, the Governor requests that the Premier will give him some information respecting the second of the petitioners' allegations.

I have, &c.,
ONSLOW.

Sub-Enclosure.

To His Excellency EARL ONSLOW, Governor of New Zealand.

YOUR EXCELLENCY,—

We, the undersigned electors in the Provincial District of Otago, humbly pray your Excellency that you will refrain from sanctioning or making any further appointments to the Legislative Council of New Zealand until after Parliament shall have assembled, for the following reasons:—

1. That the present Ministry, being in a minority at the recent elections, do not represent the people, and have therefore no right to make any recommendation to your Excellency on the matter.

2. That Sir H. A. Atkinson, the Premier, in 1887 and 1888, pledged himself not to make any recommendation for appointments to the Council until the numbers thereof were reduced to a number below one-half of the reduced number of members of the Legislative Assembly, nor until legislation had been introduced and passed providing for the limitation of the tenure of office of such Legislative Councillors.

3. That as the number of Legislative Councillors at present exceed one-half of the reduced number of members of the Legislative Assembly by three or four, no reason exists for the appointment of additional members.

And your petitioners will ever pray.

(Signed by D. Pinkerton, M.H.R., and 5,228 Others.)

Enclosure 2.

MEMORANDUM for HIS EXCELLENCY the GOVERNOR.

THE Premier acknowledges a memorandum in which His Excellency the Governor requests some information respecting the following statement in the petition from a number of electors of the Provincial District of Otago:—

That Sir H. A. Atkinson, the Premier, in 1887 and 1888 pledged himself not to make any recommendation for appointments to the Council until the numbers thereof were reduced to a number below one-half of the reduced number of members of the Legislative Assembly, nor until legislation had been introduced and passed providing for the limitation of the tenure of office of such Legislative Councillors.

The Premier has never, so far as he is aware, made such a promise; and any statements of his which may appear to bear such interpretation were only made under the belief that an Act would be shortly passed effecting the reforms that the Government desired, but in this hope the Government have been disappointed, it having been found impossible to obtain legislation.

In order, however, that there should be no mistake, the Premier caused careful search of records to be made, and can nowhere find such a pledge. He then applied to Mr. Fish, one of the members for Dunedin and one of the leading signatories of the petition, for information upon what authority the statement made in the petition was founded. In reply, Mr. Fish courteously informed him that a sentence in the Financial Statement of 1887, and what took place in the House of Representatives on the 6th of August, 1888, were relied on as justifying the statement referred to.

The paragraph of 1887 was as follows: "They [the Ministry] will also during the present session invite the Legislative Council to devise a plan by which their number may be reduced to thirty-five, one-half of the number of members proposed for this House, and thereafter limited to that number."

It is quite clear that such a pledge cannot be found in this paragraph under any canon of interpretation, and the Premier distinctly denies that he ever contemplated such a promise.

On the occasion referred to in the House of Representatives it was moved, "That, in the opinion of this House, no further appointment should be made to the Legislative Council until the Legislature shall have had an opportunity of determining upon any alterations to be made in the direction of limiting the number of members, altering the mode of appointment, or of limiting the time for which such appointments should be valid."

In the course of the debate, Sir H. A. Atkinson, amongst other things, is reported to have said, "Have the Government done anything to lead the honourable gentleman to believe that they are going to make undue appointments? Have they not practically promised that they will not make such appointments?"

Again Mr. Kerr asked, "Am I to understand that no appointment will be made before next year?"—that is, 1889.

Sir H. A. Atkinson: "I could not make a positive statement. . . . The Government have no intention of making an appointment . . . unless necessary to carry on the government."

Mr. Ward: "I hope the Government will not make any appointment during the recess, but, if they do so, I trust they will have some regard to the representation of the part of the colony which I have the honour to represent. The District of Southland at one time was entitled to, and had, four members in the Upper Chamber, but death has removed three of them; and, in fairness to people in that part of the country, I think that, if any appointments are to be made, some one in that district should be appointed. At the same time I hope that no further appointments will be made; but, should such be necessary, I trust the Premier will make them from the part of the country to which I have referred."

Sir H. A. Atkinson: "The only cause which, in my opinion, could justify an appointment, except on the recommendation of this House, would be the necessity of carrying on the government, and then other matters than locality would have to be taken into consideration."

The motion was negatived.

It is evident from these extracts and from the spirit of the debate that the speakers all based their remarks upon the necessity of giving Parliament further opportunity of legislating upon the matter; and this is clearly set forth in the resolution upon which the debate took place.

The Premier's remarks referred only to the coming recess; it is impossible to suppose that he should pledge himself for all time to make no further appointments to the Legislative Council. His remarks were evidently governed by the hope which the Government then entertained—that legislation would then be possible; and it was only after two sessions had passed subsequently to this debate that he gave up this hope, and, deeming it necessary for the efficiency of the Council, recommended the appointment of a limited number of Councillors.

In the session of 1890, on the 25th of July, the following resolution was proposed by Mr. Larnach: "That, in the opinion of this House, His Excellency the Governor should not be advised to make any appointments to the Legislative Council until after the meeting of the next Parliament." This resolution was debated at length (the Premier did not speak, not being present), and, on a division, was rejected in a full House by a majority of 48 to 43.

The Premier may also add that the policy of the present Ministry has always been to reform the constitution of the Council, and attempts were made in the late Parliament to do so, but failed of success. In the session of 1890 Sir G. Whitmore brought in a Bill having, *inter alia*, for its object the shortening of the term of the appointments from life to seven years. The Bill was amended by the Attorney-General in order to meet the views of the Government, and was cordially supported by the Government in the Council; but on a division on the third reading it was lost by a majority of 17 to 13.

The Premier also takes this opportunity to inform His Excellency that the Opposition have been in office five years since 1877, and have appointed twenty-one members to the Legislative Council. The present party in power, having been in office eight years since 1877, have only so far appointed eight members (all of whom were appointed prior to the present Government coming into office), and they propose now to add seven to this number.

17th January, 1891.

H. A. ATKINSON.

Enclosure 3.

From the Hon. the PREMIER to His Excellency the GOVERNOR.

(Telegram.)

19th January, 1891.

THE Cabinet has decided to respectfully recommend your Excellency to call the following gentlemen to the Legislative Council: Messrs. J. B. Whyte, Auckland; J. D. Ormond, Hawke's Bay; C. J. Johnston, Wellington; C. C. Bowen, Canterbury; and J. Fulton and W. Downie Stewart, Otago.

H. A. ATKINSON.

Enclosure 4.

From His Excellency the GOVERNOR to the Hon. the PREMIER.

(Telegram.)

20th January, 1891.

THE Governor has received the Premier's telegram informing him that the Cabinet recommend him to call Messrs. Whyte, Ormond, Johnston, C. C. Bowen, Fulton, and Downie Stewart to the Council. In view of the Premier's memorandum of 17th December to the effect that, having regard to the uncertainty of the strength of parties in the House of Representatives since the general election, it is desirable that Parliament shall be summoned at the earliest possible date, the Governor, before taking action on the recommendation tendered, requests the Premier to advise him whether the names that are suggested are in his opinion best calculated to strengthen the efficiency of the Upper House; and, further, whether they are the six names, if not in New Zealand, at least from among the supporters of the Government, best calculated to effect that object.

ONSLow.

Enclosure 5.

From the Hon. the PREMIER to His Excellency the GOVERNOR.

(Telegram.)

20th January, 1891.

IN reply to your Excellency's telegram *re* the appointment of Legislative Councillors, I have the honour to state that I have submitted it for the consideration of the Cabinet, and, in their opinion, the six names submitted from among the available supporters of the Government are those best calculated to strengthen the efficiency of the Council.

H. A. ATKINSON.

Enclosure 6.

From His Excellency the GOVERNOR to the Hon. the PREMIER.

(Telegram.)

20th January, 1891.

UPON the assurance contained in the Premier's memorandum that the six names submitted are best calculated to strengthen the efficiency of the Council, the Governor appoints Messrs. Whyte, Johnston, Ormond, Fulton, Downie Stewart, and Bowen to Legislative Council.

ONSLow.

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