

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

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

It will thus be seen that Lord Onslow did not express the view to be found in Despatch No. 16; he simply wished the advice to stand over until the arrival of his successor. Had he, in refusing to accept the advice, held the view expressed in Despatch No. 16, or, if that view were correct, and the resignation of Ministers had been tendered, the position would have been an appeal to the people against the decision of Lord Onslow. He would have been absent from the colony, the Acting-Governor would have been in his place, and his successor on the high seas. Previous to the sending of Despatch No. 16 there was no persistent refusal to accept the advice; there was no demur, but a ready acquiescence by His Excellency in referring the matter to the Secretary of State. The question of resigning had not been hinted at; neither is it in accordance with the traditions of representative government that, when such a difference of opinion arises between the Governor and his Advisers, the Advisers should resign unasked. There is no analogous precedent where an appeal to the electors has arisen owing to a similar difference between the Governor and his Advisers.

Upon this point Ministers beg respectfully to draw His Excellency's attention to the following words from the memorandum by Lord Normanby of the 8th November, 1877: "The question as to the extent to which Government are responsible to Parliament for the acts of the Governor is one which cannot possibly be decided in the colony. The Governor has therefore decided to forward the whole case for the consideration and decision of the Secretary of State for the Colonies, by whose decision he is bound to abide."

The constitutional position is for Ministers to act as the defenders of the Governor. To appeal to the electors to say whether the Governor, whom they are bound to defend, is in the right or wrong would place him and them in a most unusual and unenviable position.

It is quite true that the leader of the Opposition, after the correspondence had been closed and sent Home to the Secretary of State, argued that if Ministers thought the case sufficiently important they should resign; but His Excellency's Advisers dissent entirely from the contention that when a Ministry differ with the Governor they should bring pressure upon him through the ballot-box, or, in other words, that a conflict should ensue between the people of New Zealand and the Governor, without every opportunity being first given to the Governor to withdraw from an untenable position.

Ministers venture to submit that the deductions made by His Excellency from the division-lists of the Legislative Council during last session are misleading. It does not follow that, if the twelve appointments had been made, the Government would have been victorious in the divisions indicated. It must be borne in mind that on minor questions, and where no policy is involved, members of the Council vote irrespective of the Ministry appointing them. His Excellency does not show which were policy questions, upon which the Council was divided, and which were questions altogether apart from policy.

His Excellency was also unaware of the fact that there were measures not brought forward at all which his Ministers, knowing the state of the Council, considered it would be hopeless to attempt to pass. Again, important amendments were made by the Legislative Council in several of the policy Bills submitted by the Government—amendments which in some instances so materially altered the measures as to render them useless. In other measures, again, the amendments were such that his Ministers dropped the Bills altogether. Ministers dissent from the statement made that by the twelve appointments they have obtained a majority in the Council. They do, however, express surprise that His Excellency, without giving any reasons therefor, has thought it right to state that he considered it his duty to do what he could to prevent a Ministry, representing the popular will, from gaining a majority in the Upper Chamber.

The situation is exactly as indicated by His Excellency's late Advisers. The results of the session conclusively proved the correctness of their contention that nine appointments would not have been sufficient to give the Government fair or adequate support. Had His Excellency's Despatch No. 16 been submitted to his late Advisers this could have been proved promptly by the records of the Council's proceedings.

An important factor which has escaped His Excellency's attention, and which is of moment, is this: that between the time the rejected advice was tendered and the opening of Parliament, and even during the session, public opinion was freely expressed in support of the step advised. Strong expressions of opinion were also given against the action of the majority of the Council in opposing measures thrown out during the previous session. They may have had an influence with some of the members of the Council, but it is impossible to gauge how far this would tend to the passing of the measures which His Excellency's Advisers considered were required for the good of the country. In some of the divisions on minor matters it may have had an effect, but on larger questions of public policy the division-lists bear out what His Excellency's late Advisers contended for—namely, that the Council was in an inefficient state, and that the Government had not any fair and adequate representation there.