

the House of Representatives—"seeing that a Committee of the Council had reported in favour thereof." It was with a view of showing that such a contention was erroneous that the Premier supplied certain information in his last memorandum. This showed that the Council, subsequent to the report of the Committee, discharged a Bill providing for its numerical reduction before it reached its second reading. Later on the Council rejected a clause to a like effect proposed to be inserted in another Bill by twenty-four votes to two, and finally rejected the Bill itself. This was referred to by His Excellency's predecessor, Lord Onslow, in his memorandum of the 23rd January, 1891, to the Secretary of State for the Colonies, in which memorandum it was stated that the facts therein referred to weighed with him in making the appointment of seven additional Legislative Councillors in January, 1891.

The Premier agrees with His Excellency that the members of the Legislative Council retain their own opinions, but they are opinions opposed to the Government and its measures. The opinions so held are contrary to the convictions and wishes of the great majority of the electors of the colony. The majority of the Councillors referred to have been members of the House of Representatives and active opponents of the Liberal party and their measures. It would, therefore, be unreasonable to expect that their life-long political convictions would be effaced, or in the least subordinated, owing to their appointment to the Legislative Council.

The Legislative Council has ever been stubborn, prejudiced, and factious in spirit, and the calm to which His Excellency refers merely betokens the inevitable storm. Already it has been intimated that on the second reading of a very important Government measure an amendment will be moved, and no doubt carried, "that it be read this day six months."

New Zealand is not exceptionally situated, and events arising in other colonies are object-lessons which no democratic statesman in a self-governing colony should allow to pass unregarded.

The Premier very respectfully submits that he cannot agree with His Excellency's contention that there can be no vacancies in the Legislative Council, for, ever since the colony has had its Constitution, there has always been a roll of the Councillors. As will be seen from the records of the Council, the vacancies have always been recorded. The fact that a death or resignation affects the strength of the body is evidence that it is an act of leaving a vacancy or causing a void. His Excellency, in his memorandum of 22nd June, 1892, to Lord Knutsford, used these words: "I found myself in accord with Lord Onslow, and that I was unable to agree to more than eight appointments, though as soon as a resignation, which has been announced by telegraph, became an accomplished fact, I would agree to fill up the vacancy, making in all nine appointments." Section 4 of "The Legislative Council Act, 1891," enacts as follows: "The seat of any member of the Council, whether appointed thereto before the time of the passing of this Act, or subsequently thereto, shall, *ipso facto*, be vacated." And subsection (5) of the said section enacts that "if any member resigns his seat by writing under his hand, addressed to and accepted by the Governor, his seat shall, *ipso facto*, be vacated." And the first part of section 5 of the said Act is as follows: "Any question which shall arise within the Council as to any vacancy in the Council, or as to the right of any person to sit or vote therein, shall be referred by the Governor to the Council, which shall hear and determine the same."

This being the law, and it being admitted that the Ministerial right to advise appointments is incontestible, that the appointment of four Councillors will not alter the position of parties, that the Government party in the Council, notwithstanding these additions, will still be in a clear and appreciable minority; and, further, that the appointment of Councillors is not a "prerogative right," but a statutory act under "The Legislative Council Act, 1891," it follows that the action of His Excellency is restrictive in character, and prevents the operation of custom and the law. On this and other grounds stated, Ministers are of the opinion that the advice tendered should be acted on. Then, the intention of those who passed the Act of 1891—namely, the bringing of the Council more in touch with the people—would thereby be effected.

The Premier very respectfully took exception to that paragraph in His Excellency's memorandum of the 21st June which was as follows: "During the session of 1894, he thinks that on one occasion an important Government measure left the Representative Chamber in such a shape that, had it not been amended in the Council, it would have been practically inoperative." His Excellency explains that he had in his mind the important amendments made in the Land for Settlements Bill. The House of Representatives did not approve of many of the amendments made by the Council in the Bill; and it does not follow that amendments made improve the measure amended. Many amendments amount to mutilation, and experience has proved that not only this Bill (the Land for Settlements) but others have, by amendment, been made well nigh inoperative and unworkable.

The Premier regrets that His Excellency should be of the opinion that the Premier weakened his case by calling attention to the fact that there was such a small attendance of Councillors at the opening of Parliament, and for the first week thereafter. It is true that in the past the heavy work of the Council has not been done at the commencement of the session, but there are exceptions to every rule. This session there was a very short debate upon the Speech from the Throne. Bills of importance have been already passed by the House, and important Bills have also been introduced into the Council. It was necessary, therefore, that the Select Committees should be set up forthwith—more particularly the Statutes Revision Committee, to which important Bills are referred—and that there should be a fairly full attendance of Councillors. The attendance even now, the third week of the session, is most meagre; many Councillors are still absent, and, owing to their infirmities, it is impossible that some of these can attend. This contention is therefore fair, nor is it unusual. Necessity existed for calling His Excellency's attention to this fact. The Premier conceived it to be his duty so to do, and did so at the commencement of this correspondence.

The Premier regrets that His Excellency should be of the opinion that to call attention to the division-lists was abortive and unnecessary. His Excellency's objection to this is the more