



NEW ZEALAND  
GOVERNMENT GAZETTE

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*By His Excellency's Command,*

ANDREW SINCLAIR, Colonial Secretary.

VOL. II.] AUCKLAND, WEDNESDAY, AUG. 23, 1854. [No. 22

Colonial Secretary's Office. Auckland.  
18th August, 1854.

**H**IS Excellency the Officer Administering the Government directs the publication, for general information, of the following correspondence which has passed between His Excellency and the House of Representatives.

By His Excellency's command,

ANDREW SINCLAIR,  
Colonial Secretary.

*To His Excellency the Officer administering the Government of New Zealand.*

May it please your Excellency,—

We, the Commons of New Zealand, assembled in the House of Representatives, beg leave to acknowledge, with sentiments of deep and sincere respect, your Excellency's very important Message (No. 20) on the subject of recent changes in the Executive Government, and the relations between your Excellency and the Legislature.

We can assure your Excellency of our earnest desire to give the earliest consideration

to whatever matters may be submitted to us by or on behalf of your Excellency: but in approaching the subject of the Message in question, our attention has been, in the first instance, directed to incidental matters, to which we feel ourselves imperatively called on to advert.

The fact has been stated in this House by a member in his place that the Message in question has been presented to this House under his advice, he not being a sworn member of His Excellency's Executive Council.

The fact has also been stated in this house by the same member in his place, that under the present critical circumstances of the Colony, and in reference to matters of the gravest importance relating to the Executive Government, your Excellency is acting under the sole and exclusive advice of that member, without and apart from those members of your Excellency's Executive Council, who are sworn to advise your Excellency rightly, and who alone are responsible for the advice they may give.

The fact has also been stated in this house by the same member in his place that in a po-

litical crisis and in reference to affairs demanding deep knowledge and careful consideration of the law, your Excellency is acting under the advice of that member, without the advice and opinion of Her Majesty's Attorney-General.

We have heard the statements referred to with alarm as tending to compromise the honour of your Excellency's Government, and fraught with peril to the Colony.

Assuming the facts so stated to be true, we humbly, but most earnestly pray your Excellency to take this our respectful remonstrance into your serious consideration. We can assure your Excellency, with the utmost sincerity, of our anxious desire in all things to mark our high respect for your person and office; at the same time, charged as we are with high constitutional privileges involving corresponding duties, we dare not hesitate to pray your Excellency, at this serious crisis of affairs, to have recourse to the advice of your Executive Councillors, who, by Her Majesty's Instructions and the rules of the Constitution, are appointed as your Excellency's advisers in all matters of importance;—Councillors who are sworn to advise your Excellency rightly, and who, will be responsible to Her Majesty, to your Excellency, to this House, and to the Colony for the advice they may give.

Without presuming to question your Excellency's undoubted right to exercise, under ordinary contingencies, a free and unbiassed judgment upon matters of Government policy, we, nevertheless, cannot but regard the subject of your Excellency's Message, involving as it does the relations between the Executive and the Legislature, and affecting the whole state of political affairs at the present moment, as matters of such importance as to be unfit to be confided to an unofficial and irresponsible adviser, but rather as demanding recourse on your Excellency's part to your Excellency's sworn constitutional advisers.

In the meantime we respectfully assure your Excellency, that we will, at the earliest moment, proceed to consider the subjects referred to in your Excellency's Message, with an anxious desire to co-operate with your Excellency by all constitutional means in averting the difficulties and dangers at present impending over the colony.

(Signed) CHAS. CLIFFORD,  
Speaker of the House of Representatives.

House of Representatives, Auckland,  
August 9th, 1854.

#### MESSAGE No. 30.

On Thursday, the 10th instant, the Officer administering the Government received from the House of Representatives an Address dated the 9th, to which he would have replied without delay, if he had not at the same time been informed of the adjournment of the House until this day.

He rejoices at being able to dispose at once and entirely of the incidental matter to which

the attention of the House has been directed, from the consideration of the important subjects of his Messages Nos. 24, 25, and 26.

Although he believes that under the Royal Instructions which form part of the Constitution of New Zealand, he should have been justified in treating the present critical state of affairs as one of those occasions on which it is competent to the Governor to act independently of His Executive Council, and to avail himself of any advice or assistance at his free discretion, bearing himself alone the entire responsibility of any act performed by him, yet happily there is no necessity for further explanation of his views on that point, since he is able to inform the House that in every step taken by him during the present emergency, he has enjoyed the unqualified concurrence and support of his constitutional advisers.

The Officer administering the Government receives with pleasure the assurance of the House that they will without further delay proceed to consider the subjects of his Message No. 25, because he is only waiting for the result of their deliberations thereon, in order to add some members of the Assembly to the Executive Council with the view of turning the remainder of the already protracted yet fruitless Session to some good account for the people of New Zealand.

R. H. WYNYARD,  
Officer administering the Government.  
Auckland, New Zealand,  
15th August, 1854.

*To his Excellency the Officer Administering the Government of New Zealand.*

WE, the Commons of New Zealand in the House of Representatives assembled, humbly beg leave to address your Excellency in reply to Messages Nos. 25 and 26, presented to this House, on the subject of the recent changes in the Executive Government, the relations between the Executive and the Legislature, and other matters of general policy.

We beg to repeat the assurance of our high respect for your Excellency's person and office of our anxiety to co-operate with your Excellency in measures requisite for the public service and of our earnest desire to reconcile unhappy differences which threaten the peace of the Colony. We trust that your Excellency will receive this our humble Address as conceived, in that spirit, and intended as far as possible to promote those objects.

Turning to the subject of those Messages, we venture to remind your Excellency that the first act of this House, upon commencing its practical work, was to resolve, after careful and lengthened deliberation, in favor of the immediate establishment of the Executive Government upon the basis of Ministerial Responsibility. We do not repeat arguments which appeared to us, and were admitted by your Excellency to be conclusive as to the wisdom and necessity of that policy. We embodied our sentiments in a respectful Address to which we received a reply conveying the assurance of your Excellency's intention "to approach the consideration of the subject, with a sincere desire to give effect, as far as might be in your power to do so, to our views." Your Excellency now assures us that at that time

your Excellency's resolution was limited by the condition that "while fully admitting the principle, you should give immediate effect to it only so far as you could do so constitutionally: and that on examination of the Constitution Act and Royal Instructions your Excellency was led to believe that that those instructions absolutely precluded you from establishing Ministerial Responsibility in a complete form, and in particular by forbidding you to disturb any tenure of office derived from Her Majesty's Sign Manual, until you should receive from Her Majesty express direction or permission to set aside appointments made by Herself." Your Excellency further states that such opinion as to the limits of your power was distinctly made known to those gentlemen who subsequently became members of the Government.

We cannot but express our sincere regret that such your Excellency's resolution and opinion was not from the first made known to this House in a more clear and distinct form.

So far as we understand your Excellency as meaning that the present holders of office could not be removed, against their will, until pensions should have been secured to them, this House has throughout assented to your Excellency's views and governed its proceedings accordingly. But we understand your Excellency's meaning as now conveyed to us, to have a far wider scope—that your Excellency considers yourself absolutely precluded from asking or even accepting the retirement of those officers without direct permission from Her Majesty, although the interests of the public service may imperatively demand their retirement, and though pensions may be secured to them.

We venture respectfully to express our dissent from that opinion, one which appears to this House to be at variance with all usage and law, inconsistent with the spirit and against the letter of the Constitution Act—one which has never before been suggested to this House by your Excellency, or on your Excellency's behalf—one alike derogatory to the dignity of the Government itself, and subversive in the highest degree of the interests of the public service.

This House certainly never understood such to be your Excellency's meaning—nor would it have become a party to a permanent arrangement founded on that basis. It believed that the one great difficulty lay in the necessity of first securing pensions to the retiring officers. That difficulty was fully laid before us by your Excellency's late advisers in this House, and was fully recognised by us. Beyond this we do not perceive in the Constitution Act, or in the Royal Instructions, or in any of the Documents appended to your Excellency's Message anything leading us, by natural inference, to conclude that the question of establishing Ministerial Responsibility in its completeness must be referred to England.

Had reference to England been considered as a condition precedent to the concession of complete Responsible Government, we cannot but think that it is justice to this House that condition should have been distinctly stated. It would have affected and probably reversed the whole course of proceedings of this House and of its general policy, as the disclosure of it must do even at this late period of the Session.

As to that partial and provisional arrangement by which three members of this House accepted seats in the Executive Council without office for the purpose of carrying on the business of the Government in this House, and as a preparatory step, we could not regard it as more than temporary or as intended to last longer than the present Session of the Assembly. Its nature was

so explained to us by those gentlemen in this House, who were the immediate parties to it, and we looked forward with certainty to a new and permanent arrangement before the Session ended, based on the complete establishment of Ministerial Responsibility.

It was a matter of high gratification to this House when in furtherance of what we were led to believe the arrangement come to with your Excellency, three gentlemen possessing our confidence were appointed members of the Executive Council, undertaking to represent the Government, and to conduct the Government business in this House. Those gentlemen proceeded to carry on the business of the Government in this House in a manner calculated to retain its confidence, which they have never forfeited. Various measures were introduced by them, the object and effect of which was in many particulars to confer large powers on the Executive Government, and in the course of the passage of such measures this House received assurances from time to time from those gentlemen, holding as they then did the position of your Excellency's responsible advisers, that the powers sought to be conferred would, in accordance with the arrangement come to, be exercised by an Executive Government completely responsible to this House, and enjoying its entire confidence, so that in effect the full principle of Responsible Government would be brought into action before or immediately after the termination of the Session. Relying on such assurances this House agreed to many of such proposed measures, which have been forwarded through several stages. In particular a Bill for regulating the future management of the public Reserves, has gone through both Houses of the Legislature. A Bill for regulating the disposal of Waste Lands of the Crown has gone through all its stages in this House except the third reading, the principle of that measure having been affirmed continually by large majorities. A Bill for settling on a definite basis the respective powers of the General and Provincial Governments under existing laws has passed through all its stages in this House. A Bill for settling in like manner the principle of apportionment of public Revenue between the General and Provincial Governments has passed through all its stages. A Bill having for its object the establishment of the Executive Government on the basis of Ministerial responsibility, by altering the tenure of the principal offices, has gone through a second reading. That Bill has only been delayed for want of the financial estimates, the cause of that delay being solely attributable to your Excellency's Executive officers, who appear in this particular, as in others, to have made insufficient preparation for the work of the General Assembly. Other measures of minor importance are under consideration. This House cannot but advert to the foregoing statement of business transacted by it, as vindicating it from the charge seemingly implied by your Excellency's message, that it has legislated only upon insignificant subjects and in a trifling way. Even had such been the case, an apology might have been found in the circumstances that your Excellency's Executive officers had failed in preparing materials for Legislation; and those late members of the Government who hold seats in this House have not only been obliged to conduct the ordinary Government business of the House, but to mature and actually prepare the legislative measures brought before it, a circumstance of which this House may justly complain in replying to what they cannot but regard as your Excellency's reproof.

Setting aside this incidental point, the impor

tant fact to which we would draw your Excellency's attention is that the legislative measures brought before this House by your Excellency's late advisers, were of such a character that this House would not have acceded to them, except in full reliance upon the complete establishment of Ministerial Responsibility by the retirement of the present holders of office, when required, a reliance resting not only on published and official documents, but on assurances given to us by your Excellency's representatives in this House that such would be the case.

The necessity of such change has been made apparent from the actual state of the various departments of the Executive Government, and the condition of public affairs as disclosed in the course of the business of the Session. There appears to be no systematic plan for the management of Native affairs or for effecting purchases of land from the Natives; the Department of Finance is without order or arrangement—nor, so far as we can learn, is there any effectual check over public expenditure. The Waste Lands Department requires thorough re-organization; not merely from its defective state, but in order to adapt it to recent changes. Complaints are heard from many quarters of the state of the Survey Department. There is no effectual system of Public Audit, and a difficulty is experienced in ascertaining the real state of the public accounts. Owing to this state of disorder and inefficiency, this House cannot, at this moment ascertain the true state of the Colony's outstanding liabilities. The accounts laid before us shew wide discrepancies between the actual condition of the public finances and that stated in your Excellency's opening address. Charges hitherto unknown to the public have been hitherto incurred which threaten to absorb the larger part of the territorial revenue of the Southern Provinces. Debentures on the public revenue are stated to be outstanding, issued without authority of law; claims on account of old debts, exceeding in the whole 100,000*l.*, still hang over the colony; a large mass of old land claims remain unsettled, as it is alleged by default of the Government, and little or no progress has been made towards setting at rest disputes arising out of old land grants which it is feared may give rise to Native disturbances. Not only is there difficulty in ascertaining the extent of charges on the territorial revenue in the form of land scrip; but the issue of land scrip appears to be without any effectual check, control, or limit. A large per centage of the territorial revenue has been bargained away to the Natives without legal authority; Public Reserves have been improperly alienated; the Native Reserves are without regulation by law. To sum up the case, the whole organization of Government has appeared to this House in a state of weakness and disorder demanding strong and immediate measures, both for restoring it to healthy and vigorous action, and for adapting it to the recent Constitutional changes.

Under existing circumstances the present officers of the Executive Government cannot, in the judgment of this House continue to direct public affairs so as to satisfy the colony or win the confidence of the legislature. They have been hitherto merely the instruments of a system of arbitrary rule, nor can it be expected that officers under whose management disorders and abuses have grown up should be the ready and proper instruments for correcting them.

Permit us to assure your Excellency in the most earnest (though, we trust, not disrespectful) language, that the interests of the colony demand

an immediate change, and in accordance with those pledges which we have referred to as having been given in your Excellency's name, we pray you not to interpose any obstacle in the way of the accomplishment of so desirable an object.

We, for our part, are ready to fulfil so much of the engagement as belongs to us; we are prepared to secure to the retiring officers suitable pensions, and upon receiving your Excellency's assurance in reply to this Address that those gentlemen will no longer stand as an obstacle in the way of the public service, we will forthwith pass through our House a measure for securing such pensions. That being done, the compact made between your Excellency and this House is one of which we ask the fulfilment.

Your Excellency will observe that in the foregoing appeal this House has carefully guarded itself against touching upon those controverted questions between your Excellency and your late advisers in this House, to which your Excellency's message refers. We have studiously and intentionally drawn that line which it appears to us fitting on our part to observe.

The compact made by your Excellency with this House is one distinct from all private understandings and arrangements between your Excellency and your individual ministers. Our claim on your Excellency rests on no such grounds. It rests on published and official documents, interpreted and explained to us openly and publicly by your Excellency's responsible advisers in this House, upon the faith of which compact the whole business of legislation has proceeded during this session.

In truth we do not think that matters of personal controversy between your Excellency and your Ministers ought to be brought before this House as if for judicial decision or arbitration. This House is an unfit body to determine such questions, whether as a court of honour, or as a judicial tribunal. It has no means of ascertaining accurately the true facts. It can but listen with deep pain to controverted statements of fact on either side. To arbitrate, as your Excellency would seem to ask of this House, in such a matter, is an office which we respectfully decline; and we cannot but express our regret that your Excellency should have been advised to make such an appeal.

We venture thus unreservedly to address your Excellency in reference to the terms of your Excellency's Message, because it has been publicly announced to us by Mr. E. G. Wakefield, a member of this House, that that Message was prepared and presented to this House under his advice; that he alone is responsible for it, and that he alone has been your Excellency's adviser in this matter. We trust we may be pardoned under these circumstances for expressing our sentiments in reference to that Message in other language than if it had been the spontaneous expression of your Excellency's own mind, dictated by your own unbiassed sentiments of honour and generosity.

Having thus ventured to submit to your Excellency arguments grounded on the consideration of past and existing circumstances, we turn to the future, appealing to your Excellency under a deep and solemn conviction of the responsibility which rests no less upon your Excellency than upon ourselves under the present critical position of the Colony. Dismissing all that has past, we pray your Excellency to look at the question as now standing on new ground, and surrounded with new circumstances, and therefore justifying new concessions. Will your Excellency deem it wise to return to the original state

of things, and to attempt to carry on the Government with your present Officers, against the declared judgment of this House, and the general opinion of the Colony? Assuming this House to be prepared to place at the disposal of such a Government the requisite supplies for the public service, we pray your Excellency to consider how powerless it would be to contend against the difficulties with which it would be surrounded. As it would not command the sympathy or respect of the Colony, how unable it would be to exercise due control over the Provincial Governments, and unsupported by a popular General Legislature, or by public opinion, it would be certain to fail in any struggle with those bodies and in that failure may be involved a loss of influence on which the unity of the Colony depends. How unable such a Government would be during the short remains of its precarious existence to originate and execute those measures of organic reconstruction of which we have shown so great and such immediate need. Besides this, the Empire is involved in foreign war, the effects of which may reach even this, its remotest dependency, whilst recent occurrences prove that we are not entirely free from the risk of native disturbances. We pray your Excellency to weigh seriously, and by your own decision to avert, the momentous evils which may spring from a feeble, unsupported, and unpopular Government at such a crisis.

We have not overlooked the fact, referred to by your Excellency of the temporary nature of your Excellency's tenure of office. But your Excellency, on the other hand, must pardon us for reminding you, that the demand of Ministerial Responsibility was one of the obvious incidents of the assembling of a popular Legislature; and that in consequence of that demand, to some extent, bound yourself to follow out that measure to its natural consequences. The temporary and provisional nature of your Excellency's tenure of office is indeed an argument the force of which we recognise in estimating your Excellency's claims on our sympathy and gratitude; but not as a ground of relief from the duties of your position. Under grave circumstances like the present the interests of the colony are the one paramount consideration, and with that object in view, we know not how to draw a distinction between the relations of the Governor *de facto* towards the Colony, whether he be a permanent or temporary administrator of the office, nor can we recognize any difference arising out of such distinction, in the nature or degree of the duties and responsibilities which must grow out of such relations.

Before determining this our last appeal to your Excellency on this subject, we pray your Excellency to bear in mind that we ask no more than the application of a principle of policy, fully admitted by the Imperial Government as applicable to colonies, in which popular Legislatures have been established on the basis of complete representation. The recent cases of Jamaica and Newfoundland in which it has been applied under the express direction of the Imperial Government may, (we venture to urge,) be assumed by your Excellency as safe guides in the present instance.

We trust that your Excellency will pardon this our apparent importunity. We have felt called on thus to lay our sentiments before you without reserve, no less from motives of duty to your Excellency as founded on a regard for the interests of your Excellency's Government, of Her Majesty's Service, and of the Colony, than from a deep sense of our own responsibilities and an

anxiety to discharge our own consciences in this matter. And in conclusion we humbly beg that your Excellency will be pleased to give due weight to arguments founded on considerations of justice, policy, and duty; and, so far as in you lies, to rescue the colony from its alarming difficulties by acceding to our reiterated prayer, for the immediate establishment of the Executive Government on the basis of complete Ministerial Responsibility.

Passed the House of Representatives,  
this day of August 1854.

CHARLES CLIFFORD,  
Speaker.

#### MESSAGE No. 32.

The Officer administering the Government has received an Address from the House of Representatives, dated the 16th instant, in answer to his Message of the 5th instant (No. 25), and has bestowed upon the contents of that document the anxious consideration which his sense of their great importance to the Colony demanded from him.

He will not permit the character of some of the statements and arguments which that Address conveys to him to disturb the friendly sentiments towards the House of Representatives which he sincerely entertains, and considers it a duty to cultivate by all the means in his power. Controversy between the House and himself on portions of their Address, which he cannot but feel to be objectionable, could produce no good result and would probably lead to an increase of the evil which he deplores. He will not, therefore, straggle further to the subject.

In the hope of securing harmonious relations between the Legislative and Executive branches of the Government, and in order to meet to the utmost of his power the wishes of the House with regard to the establishment of Ministerial Responsibility, the Officer administering the Government, at an early period of the session, took upon himself the responsibility of making an important change in the composition of the Executive Council, and he hopes ever to recollect with pleasure the expression of the satisfaction of the House at his prompt compliance with their desire.

Avoiding, as worse than useless in the present state of affairs, all reference to the subjects of his difference with the late members of the Executive Council; the Officer administering the Government is, nevertheless, compelled to notice and, indeed, to take as his guide, the new position in which he and the House are placed by the new demand now presented to him in the following words:—

"We turn to the future, appealing to your Excellency under a deep and solemn conviction of the responsibility which rests no less upon your Excellency than upon ourselves, under the present critical position of the Colony. Dismissing all that has passed, we pray your Excellency to look at the question as now standing on new ground, and surrounded with new circumstances, and therefore justifying new concessions."

The concession required being, in the last words of the Address,—

"The immediate establishment of the Execu-

tive Government on the basis of complete Ministerial Responsibility."

By his Message No. 25, the Officer administering the Government informed the House that he believed himself to be absolutely precluded by the Royal Instructions from establishing Ministerial Responsibility in a complete form; and not anything contained in the present Address from the House is calculated to lead him to a different conclusion. His sense of duty absolutely forbids him to make the concession now required in terms of the most positive character; and he has only to repeat the settled conviction of his mind that by yielding on the point of duty he should deserve the censure of Her Majesty and incur the disapprobation of the Colonists of New Zealand.

It is therefore plain that a difference has taken place between the House of Representatives and the Officer administering the Government, which is at this moment irreconcilable. The present Address from the House coupled with his own unaltered sense of duty to Her Majesty and the Colony, leaves him without a hope of being able to restore for the present that kind of Ministerial Responsibility which recently gave so much satisfaction to himself and apparently to the House and the public. Neither adverting to the early proceedings of the House with regard to Ministerial Responsibility—to the whole character of the Address now before him—and to the large majority by which it was adopted, can the Officer administering the Government think it possible that the House should carry on business without any ministerial communication between them and the head of the Government. He is painfully convinced that, as respects Legislation for the service of the Colony, the Session has come to an end.

Under these new circumstances as produced by the new demand of the House, the ordinary duty of the Officer Administering the Government would be to prorogue the Parliament indefinitely, and to submit the whole subject to Her Majesty and the Imperial Parliament. But as he has before in his anxiety to do what he thought would be serviceable and very agreeable to the people of the colony, taken steps and incurred responsibility beyond the ordinary duty of an accidental and temporary administrator of the Government, so now—with the same disposition towards the colonists, he clings to the hope that Legislation by the General Assembly may

not be indefinitely suspended: and, trusting that a majority of the House may yet, after reflection, be willing to co-operate with him in passing laws which are greatly needed by the colony, he intends forthwith to prorogue the Parliament for but a short period, and to lay before them when they reassemble, his views of what the wants and best interests of the colony demand.

In the meanwhile it will be his endeavour to add to the Executive Council such a number of members, being members of the Legislature, as shall give to all the Provinces an effectual voice and influence in both the Legislative and Executive proceedings of the Head of the Government. And he further intends, with the view of accelerating as much as possible the establishment of complete Ministerial Responsibility in New Zealand, to despatch without delay to Her Majesty's Government an earnest request that they may be pleased, either by means of the Royal Prerogative, or by the aid of Parliament, to enable the General Assembly to pass an effectual measure for establishing Responsible Government in this Colony according to the forms and usages of the British Constitution. After the brief recess of the General Assembly its two Houses will determine whether it may not also be expedient for them to concur with the Officer administering the Government in passing a Bill for the same purpose, (which, of course, would be reserved for Her Majesty's assent,) so that no means may be neglected of acquiring for the Colony in the shortest possible time, a Political Constitution to which the House of Representatives do not attach more importance, and which they are not more desirous of obtaining for this Colony than the Officer Administering the Government.

R. H. WYNYARD,

Officer Administering the Government.  
Government House,  
Auckland, 17th August, 1854.

MESSAGE NO. 33.

The Officer Administering the Government transmits to the House of Representatives a copy of the *New Zealand Government Gazette* containing a Proclamation proroguing the General Assembly until Thursday, the 31st instant.

R. H. WYNYARD,

Officer Administering the Government.  
Government House,  
Auckland, 17th August, 1854.