

1880-81.

VICTORIA.

DISSOLUTION OF PARLIAMENT.

CORRESPONDENCE BETWEEN HIS EXCELLENCY THE GOVERNOR AND THE LATE
MINISTRY RELATIVE TO A PROPOSED DISSOLUTION OF PARLIAMENT.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.

MINUTE OF CABINET FOR HIS EXCELLENCY THE GOVERNOR.

WE have the honor to advise your Excellency that a vote of want of confidence has been carried against us by a majority of three out of the full House. We desire briefly to draw attention to some of the circumstances attending that vote. Although by the wording it was made to cover the conduct of business by your advisers in Parliament and in the departments, it may confidently be stated that no attempt was made during the whole debate to establish a case of administrative misconduct; and the recognized leader of the Opposition, Mr. Murray Smith, expressly declared that he did not support the motion upon that ground. Mr. Murray Smith and Mr. Francis also disclaimed any responsibility that might arise out of the political situation. We think, therefore, that we are justified in asserting (1) that the House has declared nothing more than its want of confidence in our ability to conduct business in Parliament, and (2) that the only strong party besides that which we have the honor to lead does not feel itself capable of taking our place.

Under these peculiar and almost unexampled circumstances, we have the honor to recommend that Parliament be dissolved.

(1.) It will be remembered that the existing Parliament was elected under the auspices of our opponents. Even in England, where the influence and the patronage of Government are very much less than in Victoria, your Excellency is aware that an Administration is considered to possess an advantage over its opponents. The present Ministry therefore took office weighted by the past power of a Cabinet which the country deliberately condemned.

(2.) The present Parliament was elected upon a single important issue—that of Reform. The Ministry has settled, by unexampled majorities, a dispute that has agitated the country for years. Meanwhile it has provoked the defection of some of the extreme among its followers by the very moderation that has made it successful. We feel we have a right to demand a verdict upon our conduct from the constituencies.

(3.) The present Assembly is divided into three, at least, if not into four parties. The strongest and most compact of these is still that which follows the present Ministry. Under these circumstances a change of Administration can only lead to the establishment of a feeble and transitory Government. Such an event would not only be deplorable for the disorder it might produce in the management of the departments, but because it would undoubtedly lead to fresh party divisions and a renewal of the bitterness by which party strife in Victoria has constantly been characterized.

(4.) Ever since the motion of want of confidence was tabled meetings have been held throughout the country declaring the confidence of the constituencies in the Government and its supporters. Scarcely any expression of public opinion has been made on the other side. Even the Opposition press has, to a great and most unusual extent, condemned the action taken in Parliament against the Ministry. There is, therefore, the best reason for believing that the late small majority in the Assembly does not represent a majority in the country.

(5.) It is a peculiar feature of the late vote that its supporters gave no indications of any plan of public policy. Unless a dissolution be granted a few constituencies will be allowed to return to office Ministers of whom the country at large may disapprove, and whose programme of action has never even been discussed in Parliament. Under such circumstances it might be difficult for the Assembly to give incoming Ministers that patient trial to which the advisers of the Crown are in general entitled.

(6.) It is an unfortunate complication of the present situation that the financial year has closed without the passage of an Appropriation Bill. If Parliament be dissolved at once the House may meet for business in August, and, as the balance of parties will then have been decisively ascertained, the Estimates can be quietly proceeded with. If, on the other hand, a weak Government is put in, the immediate delay to business will be as great as at a general election, and there will be constant embarrassments in the conduct of business, resulting perhaps in irretrievable disorder.

(7.) Lastly, there is no instance in England since 1832 where a dissolution has been refused to a Minister asking for it. (So completely is this the case that Mr. Bagshot assumes the right of dissolution to be a privilege of the Ministry. "The Premier," he says, "though elected by Parliament, can dissolve Parliament.") It has sometimes been argued that a Governor, being responsible to the Crown, must exercise his own judgment in withholding or granting a dissolution; but this doctrine appears to imply that the representative of the Sovereign is to incur a responsibility from which the Sovereign would shrink, and that the rights of the subject in Victoria are not to be interpreted by constitutional precedent in England. Such an opinion is not that of Sir Erskine May, who says that a colonial constitution has become the very image and reflection of parliamentary government in England. Your Excellency appears to have acted on this principle in granting a dissolution in 1880, though the Parliament had only sat nineteen days.

Against these arguments, the only one that has any constitutional weight is that which attaches the name of "penal" to a dissolution "inflicted merely to maintain in power the particular Ministers who hold the reins of Government." (Todd, II., 406.) We would observe, in reference to this, that a dissolution can only be penal to the constituencies or to Parliament. In the present case the constituencies are petitioning for it, and allusions to it in the House have been received with cheers and counter cheers from both sides. We would emphatically disclaim any desire to punish the Opposition any more than our own numerous supporters for the vote lately taken. We took office to perform engagements to our party and to the country; we have allowed the late vote to be taken with no further delay than was needed to vindicate our characters; and we should be as prepared to make way at once for a strong Government as we are to bow to the verdict of the constituencies. But we confess we shrink from the prospect of interminable warfare against make-shift Administrations; and we believe that the present moment, when all burning questions have been disposed of, is a singularly happy occasion for asking the country to decide who its Administrators shall be.

On behalf of the Cabinet,

GRAHAM BERRY,

Premier.

4th July 1881.

MEMORANDUM FOR THE HONORABLE THE PREMIER.

The Governor has carefully considered the minute of the Government in which they advise a dissolution of Parliament, in consequence of the vote of want of confidence which was carried against the Government on Thursday last. The Assembly, in passing that vote, was acting certainly within its legitimate and constitutional rights and privileges; and the Governor does not consider that it is his duty to enter into the question of the motives by which they were actuated or the way in which the majority was constituted, as he is bound by the privileges claimed by the Speaker at the commencement of a new Parliament at all times to place the most favorable construction upon their acts; and he is ready to believe that the majority who voted for the motion are prepared to assume the responsibilities which they have incurred.

Frequent and sudden dissolutions, where they can possibly be avoided, are universally condemned by all commentators on parliamentary government as weakening the power and authority of Parliament. The right of the Crown to dissolve is undoubted, but when there is no question of great public importance at issue between the Government and the House which can be submitted for the decision of the country, it is not considered a legitimate exercise of the prerogative to dissolve simply for the purpose of strengthening a party which has lost its majority in the House.

The Reform Bill having been passed there is now no great question at issue between the Government and the House, and a dissolution at the present moment would mainly turn upon which party in the House could obtain a majority.

The Governor would remind the Government that within about sixteen months two elections have taken place—the one granted to Mr. Berry upon his Reform Bill, when the Opposition obtained a majority, and the other granted to Mr. Service upon the Reform Bill which he had placed before the country at the previous election, but which was defeated in the Assembly. At that election Mr. Service's Government was defeated, but the aggregate number of votes cast for both sides was very nearly equal, the difference being only about 4,000 votes.

The conclusion which the Governor would draw from these two elections is that parties in the country are very closely divided, and that there is no security that in the event of a dissolution the Government would obtain the majority which they state they anticipate.

The Governor cannot admit the principle advanced by Ministers that a Premier has a right to a dissolution whenever he may advise one. It may be true that in England there may be no direct evidence of a Minister having been refused one, but the Governor would ascribe that circumstance, first to the fact that English statesmen have been reluctant to advise a dissolution except when their claim was undoubted, and secondly to the circumstance that the same publicity is not given in England to the communications between the Crown and the Government as is done in the colonies; and he feels perfectly confident that under circumstances such as those which exist here at present no Minister would ask for a dissolution.

If the principle were once admitted that a Minister had a right to a dissolution whenever he saw fit to advise one, a vital blow would be struck at the power and independence of Parliament. The Minister would then become the master of Parliament instead of the servant of the Crown, and the knowledge that a vote against the Government might terminate its existence would act as a constant drag upon the independence of Parliament and the exercise of that supervision over the actions of the Government which it is its duty and right to exercise.

It is the duty of the Governor to act fairly and impartially between all parties, and after a careful consideration of the whole circumstances of the case he feels that he would not be justified in dissolving the present Parliament, which has not yet completed its first session, when there is no great question of public interest at issue between the Government and the House which could be justly referred to the country, until he has convinced himself that no other combination can be arrived at by which the government of the colony can be carried on ; and he must therefore, at any rate at present, decline to accept the advice of Ministers.

(Signed) NORMANBY.

Government House,
Melbourne, 5th July 1881.