

(No. 35.)



1858.

---

T A S M A N I A.

---

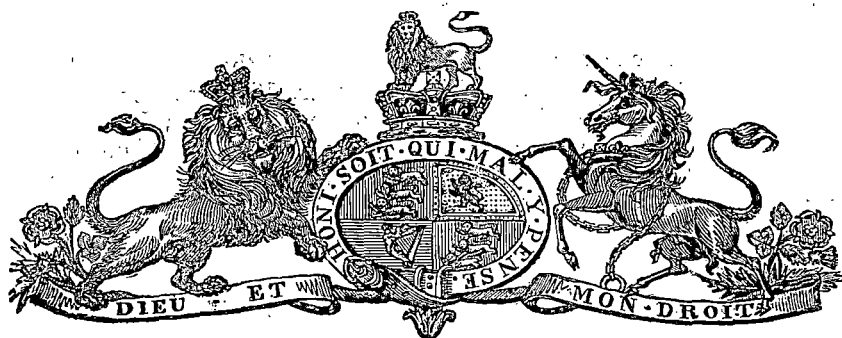
HIS EXCELLENCY THE GOVERNOR'S INTENDED VISIT TO  
ENGLAND.

MINUTES OF EXECUTIVE COUNCIL AND DESPATCHES.

*(Return to an Address. Mr. Button, 28 September, 1858.)*

---

Laid on the Table by Mr. Henty, and ordered by the Council to be printed,  
19 October, 1858.



*PROCEEDINGS of the EXECUTIVE COUNCIL with respect to His Excellency the Governor's intended Visit to England on Leave of Absence from the Secretary of State.*

---

At a Meeting of the Executive Council, held at the Government House, Hobart Town, on Tuesday, February 23, 1858 ;

PRESENT :

HIS EXCELLENCY THE GOVERNOR,  
THE HONORABLE FRANCIS SMITH, ESQUIRE,  
THE HONORABLE W. HENTY, ESQUIRE,  
THE HONORABLE F. M. INNES, ESQUIRE,  
THE HONORABLE J. WALKER, ESQUIRE.

MINUTE, No. 45.

The Governor lays before the Council a Despatch from the Secretary of State (No. 79.) dated 14 September, 1857, referring to a correspondence between His Excellency and the Colonial Office in 1852, in which the then Secretary of State, Sir John Pakington, pointed out that he apprehended considerable public inconvenience if His Excellency's request for leave of absence were acceded to.

His Excellency is informed that Mr. Labouchère considers circumstances have so far altered by the introduction of Responsible Government, that no special reasons now exist to render His Excellency's absence inexpedient ; and that should His Excellency be still desirous of obtaining leave of absence, he is prepared to grant it for a Twelvemonth upon the usual terms of half salary, the remainder accruing to the Officer who will administer the Government during His Excellency's absence.

The Secretary of State only requiring that His Excellency should be fully persuaded that no public inconvenience is likely to result from his absence, and that the Officer in command of Her Majesty's Troops is able to assume the Government during His Excellency's absence.

The Governor informs the Council that he proposes to take advantage of this leave of absence, and lays over a proposed addition to the Speech on the Prorogation of Parliament in which His Excellency's intentions are explained.

The consideration of the subject is postponed until to-morrow.

---

At a Meeting of the Executive Council, held at the Government House, Hobart Town, on Wednesday, February 24, 1858 ;

PRESENT :

HIS EXCELLENCY THE GOVERNOR,  
THE HONORABLE FRANCIS SMITH, ESQUIRE,  
THE HONORABLE W. HENTY, ESQUIRE,  
THE HONORABLE F. M. INNES, ESQUIRE,  
THE HONORABLE J. WALKER, ESQUIRE.

MINUTE, No. 47.

With reference to Minute, No. 45, of yesterday, the following Memorandum, prepared by the Ministry, is read :—

We have had under our consideration the letter of the Right Honorable the Secretary of State for the Colonies of the 14th September, 1857, conveying approval of Your Excellency being absent from this Colony on leave for a year; Your Excellency's letter of 20th February, 1858, to Major-General Macarthur; and the Minute of the terms in which you propose to communicate your contemplated absence to Parliament in the Prorogation Speech. Your Excellency has invited us to give an unreserved expression to our opinions on the question thus brought before us; and it is our duty, as your Responsible Advisers, to accept and respond to that invitation in the spirit in which it is made.

1. We do not conceal from Your Excellency that we are deeply sensible of the inconveniences which are liable to arise from your absence from the Colony; inconveniences which, although peculiar circumstances may mitigate or aggravate, can under no circumstances be inconsiderable.

Responsible Government, if it relieves the Governor from many duties of Administration to which his attention was formerly necessary, requires, in respect to the duties which it devolves upon him, and to which the occasion is liable to arise from the most unexpected causes, that he should act with a degree of prudence, circumspection, and decision which experience only can teach, and under a sense of responsibility which is not to be relied on in any casual *Locum tenens*.

2. From considerations to which we need not more specifically advert, we are apprehensive that the absence of Your Excellency from the Colony would be distasteful to the inhabitants generally, and would, unless your office were filled in the mean time in a manner that would conciliate public opinion, operate upon its estimation, and upon the settlement of the conditions attached to it at a future period, in a way which, in our judgment, would be as prejudicial to the interests of this country, as to those of Your Excellency's successors in its Government.

3. At the same time we are constrained to admit the force of those reasons to which the Secretary of State has yielded in according leave of absence to Your Excellency; and we should be sorry to interpose any objections of an insuperable kind to your taking advantage of that permission,—the more so, as we can fully appreciate the spirit of self-denial, and of paramount regard to public duty, by which Your Excellency has been animated in your communications to us on this subject. Our desire is, in the course we shall advise, to meet Your Excellency's views, and at the same time mitigate, or wholly escape, those objections which we have felt it nevertheless to be our duty to submit.

4. We advise, then, that you request Major-General Macarthur to assume the Government during your absence. The principle of *selection* will then be complied with in a manner consistent with the terms of the Royal Commission, instead of that *affront*, if we may so express ourselves, being put upon the Colony of the office of its Governor passing to any one by *chance*.

5. In Major-General Macarthur the Colony would have a temporary Governor who has had experience in the duties of Administration in connection with a Responsible Ministry, and one who proved himself, in Victoria, in every respect equal to those duties.

6. His rank, and the fact of his coming to this Colony for the special purpose of administering its Government during Your Excellency's absence, would go far to satisfy public opinion, while it would meet those demands upon the office of Governor which, although indefinite or secondary in character, have as much influence as any other, if not more, on its estimation and its successful execution.

We cannot conclude without once more acknowledging the spirit in which Your Excellency has referred this question to us; and we are persuaded that you will do justice to our motives in the advice we tender, and that in your communications with Major-General Macarthur you will endeavour to effect an arrangement in harmony with those considerations which we have submitted, as well as favorable to the very natural desire of Your Excellency to visit England after your lengthened absence from it.

FRANCIS SMITH.  
WILLIAM HENTY.  
FRED. M. INNES.  
JOHN WALKER.

24 February, 1858.

We consider that the acceptance of the Government during Your Excellency's absence by Major-General Macarthur would satisfactorily dispose of the difficulties which we have stated, and would remove all objection to Your Excellency availing yourself of the leave granted by the Secretary of State.

FRANCIS SMITH.  
WILLIAM HENTY.  
FRED. M. INNES.  
JOHN WALKER.

His Excellency informs the Council that he will take this Memorandum into consideration, and communicate his decision on a future day.

At a Meeting of the Executive Council held at the Government House, Hobart Town, on Thursday, March 4, 1858;

PRESENT :

HIS EXCELLENCY THE GOVERNOR,  
THE HONORABLE FRANCIS SMITH, ESQUIRE,  
THE HONORABLE F. M. INNES, ESQUIRE,  
THE HONORABLE J. WALKER, ESQUIRE.  
THE HONORABLE W. HENTY, ESQUIRE.

MINUTE, No. 51.

WITH reference to Minute, No. 47, of the 24th ultimo, the Governor informs the Council that he had forwarded to Major-General Macarthur the Memorandum of the Ministry on the subject of His Excellency's proposed absence from the Colony, and had urged upon the Major-General the views expressed in that Memorandum, as to Major-General Macarthur's administering the Government during His Excellency's absence in England. The Governor now lays before the Council the reply of Major-General Macarthur to that communication, which is read as follows:—

*Jolimont, Melbourne, 27 February, 1858.*

MY DEAR SIR,

I DO not delay replying to Your Excellency's communication of the 24th instant, and of expressing my great regret that your Executive Council have considered there exist grounds of objection to Colonel Perceval's being nominated, as the Senior Military Officer in command of the Troops in Tasmania, to exercise the Civil Government there during Your Excellency's temporary absence from thence on leave.

Had the selection of an Officer to administer the Government been referred to me, under the circumstances that have arisen, I could have made no other choice; and had, therefore, great pleasure in my recent letters, both to yourself and Colonel Perceval, in confirming the views which Your Excellency entertained on the subject by expressions of my own favorable opinion of them.

The chief objection to those views by your Executive Council appear to rest on a Military Officer being appointed to administer the high office of Governor, who has had no experience of administration in connection with a Responsible Ministry.

Colonel Perceval has, however, assured me that he would be guided by the Constitution; and his own experience of the course of Civil Government in Tasmania under Your Excellency would enable him to maintain the line of policy that he has proposed to himself. These, perhaps, are considerations that may induce your Executive Council to modify the opinion at which they had arrived.

I may also state that recently, on the occasion of the temporary absence from Sydney of His Excellency Sir William Denison, it was intimated in reference to myself that the cause of Her Majesty's Government not having named me in the Commission providing for the Administration of affairs was, that I was fully occupied with the Head Quarter Duties of my Command at Victoria.

It is true that the circumstances of the two periods, and of Sydney and of Hobart Town with reference to Melbourne, do not afford parallel cases. All, excepting in distant New Zealand, is now tranquil, and the intercourse between Victoria and Tasmania, if not more frequent than with New South Wales, occupies far less time; so that, without disturbing the permanent Head Quarters of this Command, reference for all essential purposes might be made to the Major-General for a temporary object resident in Tasmania.

I have fully represented what occurs to me writing on the spur of the moment. My wish is, that the Executive Council may yet confirm Your Excellency's original arrangements; but, should they decline doing so, rather than that there should be individual disappointment to yourself in being compelled to forego the leave of absence granted by the Secretary of State, I would, much to my own inconvenience, but at the same time as evincing my desire to advance the Public Service, consent to administer the Government of Tasmania during your temporary presence in England; provided, on arriving there, it should be signified to you that His Royal Highness the General Commanding in Chief, who by the next mail from hence will have been made aware of the circumstances, had expressed to the Secretary of State no disapprobation of the measure.

Should it, however, appear that it had been considered objectionable by His Royal Highness, in that case both yourself and your Executive Council will have to be prepared, on my being apprised thereof, for my at once relinquishing the temporary administration of the Government of Tasmania.

I am unwilling to close my letter without a request that you will have the goodness to convey to your Responsible Advisers in the Executive Council the high sense which I entertain of the encomiums they have passed upon me.

I remain, &c.,

E. MACARTHUR, *Major-General.*

*His Excellency* SIR HENRY YOUNG, *C.B.*

The Council see no reason to alter the opinion expressed in their Memorandum of the 24th ultimo, and inform His Excellency that they adhere to their former decision.

---

AT a Meeting of the Executive Council held at the Government House, Hobart Town, on Wednesday, March 17, 1858;

PRESENT:

HIS EXCELLENCY THE GOVERNOR.  
 THE HONORABLE FRANCIS SMITH, ESQUIRE.  
 THE HONORABLE W. HENTY, ESQUIRE.  
 THE HONORABLE F. M. INNES, ESQUIRE.  
 THE HONORABLE J. WALKER, ESQUIRE.

MINUTE, No. 63.

THE Governor, with reference to the letter of the 27th of February last from Major-General Macarthur in reply to the Minute of this Council dated 24th February, now lays over a letter from the Major-General of the 10th instant, intimating his intention to remain at Melbourne.

The Governor requests the advice of the Executive Council as to the course which he should take under the circumstances, under the authority conveyed to him by the Secretary of State conceding to him leave of absence for Twelve Months, provided the condition of the Colony is free from political difficulty or embarrassment, and no special reason exists to make his temporary absence inconvenient.

*Head Quarters, Melbourne, 10 March, 1858.*

MY DEAR SIR,

YOUR Excellency's letter to me of the 5th instant in reply to mine of the 27th ultimo, on the subject of the proposition that originated with your Executive Council, that for a time I should become the Administrator of the Government of Tasmania, reached me this day.

I exceedingly regret that the Council has adhered to the views expressed in their Minute of the 24th ultimo, because, with respect to separating myself from the established Head Quarters of this Command, difficulties present themselves on deliberately considering the subject which I did not at first fully contemplate.

And as regards Colonel Perceval, both his rank and position are to be remembered, and that he is, as now actually commanding the Troops in Tasmania, the legitimate person named in the Royal Commission to succeed to the temporary Government of the Colony in the absence of the Governor.

Add to this, it had been already announced to him that such would be the case on Your Excellency's departure, and he was fully prepared to expect it.

No cause that has yet been assigned would, I am persuaded, be considered at home a justifiable plea for my superseding him in his present Command in order that I might assume the temporary Government of Tasmania.

No public emergency has arisen to justify my quitting my true post at Melbourne; and were I, by so doing, to set Colonel Perceval aside, there are few persons but would consider he had been slighted and disparaged.

I am truly concerned at this renewal of disappointment to you as respects your leave of absence; and were the question not one of public duty, I should consider myself bound by the contingent promise, made by me at the moment, of becoming your *Locum tenens*.

As it is, there can be no alternative but for me to remain at Melbourne.

It is most unfortunate that the Mail from here to England will have departed before there will be a possibility of your apprising the Secretary of State that, contrary to your earnest hopes and wishes, you will be unable to avail yourself of his permission to return home.

I will, however, transmit to the Colonial Office a copy of this letter without delay, which, together with your own Despatch, will sufficiently explain what has occurred; and I will further request that, as far as possible, your friends may be made aware that, difficulties with respect to your temporary successor not having been removed, you were at present unable to leave your Government.

I remain, &c.,

E. MACARTHUR, *Major-General*.

*His Excellency* SIR HENRY YOUNG, *C.B.*

P.S.—As practical illustrations of the difficulties that would attend my being stationed in Tasmania, I have but to observe that although the accompanying reply to Your Excellency's letter of the 5th instant was written on the day of its receipt, yet, owing to the uncertainty of the post, it will not be possible that it should be forwarded until to-morrow.

And yesterday the English mail brought orders for the departure from Sydney of the 77th Regiment for Hong Kong. Instead of giving immediate effect to those instructions, as I have done, had I been at Hobart Town, nine or ten days would have transpired, under the most favourable circumstances, before it would have been possible.

E. M.

*Melbourne, Friday, March 12.*

Your Excellency having laid before us the letter addressed to you by Major-General Macarthur of the 10th instant, in which the General revokes the acceptance of the Government of the Colony during your proposed temporary absence from it, and having requested our advice as to the course you should take in the circumstances—"under the authority conveyed of the Secretary of State granting you leave of absence for 12 months, provided the condition of the Colony is free from political difficulty or embarrassment, and no special reason exists to make your temporary absence inconvenient"—we cannot refrain, in according our advice, from expressing our deep concern at the unexpected impediment which has arisen to the gratification of Your Excellency's most reasonable and natural wishes; and we should be glad to relieve ourselves of the duty of advising, could we do so consistently with our obligations at once to Your Excellency and to the Colony.

We forbear to recapitulate the grounds stated in our Memorandum of the 24th ultimo; but bound as we are, as Ministers under a Constitutional form of Government, to respect public opinion, we must state that since that Memorandum was addressed to Your Excellency, the reasons set forth in it, we have ground to believe, have been generally and emphatically confirmed throughout the Colony, so much so, that were they now to be ignored, and did Your Excellency by our advice resign the Government to any Officer who happened for the time to be in command of the Troops in Tasmania, we have no hesitation in affirming that the probability exists that those consequences would be occasioned to which the Secretary of State has adverted of "political difficulty" or "embarrassment."

In expressing our opinions now, as formerly, with that unreserve which Your Excellency has in the most frank and earnest manner invited, we would disclaim all sentiments of mere personal disinclination to the Officer at present in command of the Troops in this Colony. That Officer has kept himself so entirely aloof from the interests and the passions of the Colony since he has been in it, that individually he can have given no positive ground of offence or uneasiness to any party; but he has not had any experience in connection with the working of Constitutional Government,—and occasions are by no means improbable, in the course of a very short period from the present time, in which the tact and talent of a tried Administrator would be required.

We would remind Your Excellency that the legislation of the last Session of Parliament was in its most important respects experimental in character; and some months must elapse before it will be ascertained whether it will satisfy the financial and general objects it was intended to meet. Until its success is proved, we can have no assurance that the "political difficulties" and "embarrassments" are surmounted which placed the Government, in a few weeks last year, in the hands of no less than three different Ministries.

We are now watching with solicitude its operation and results; and should they disappoint our expectations, we must be prepared for the contingencies of those Ministerial crises in which every thing depends on the Governor.

At the same time that we thus unequivocally express our opinions, we beg to assure Your Excellency that should they not appear to you to be well founded, and should you think proper, notwithstanding these opinions, to avail yourself of the Secretary of State's leave of absence, it will be our most earnest endeavour to smooth the difficulties of Government, and to aid by every means in our power the Officer who would in that event be your *Locum tenens*, so as to promote the public welfare. But we are constrained in tendering our advice to bear in mind our responsibility to Parliament, and so to frame that advice that it will, if challenged, meet with approval there, rather than to respect those personal considerations for which Your Excellency has had the generosity under disappointment to give us full credit.

The Governor is unable to concur in the view which the Ministry have taken on the subject of the leave of absence which the Secretary of State has conceded to him on certain conditions.

These conditions appear to the Governor to have exclusive reference to the existence of public inconvenience, embarrassment, and political difficulty, none of which exist at present, or in probable prospect; and as either their occurrence or their prevention could, in the opinion of the Ministry, be satisfactorily met by General Macarthur, they could, in the Governor's opinion, be equally so by Colonel Perceval.

An Administrator of the Government during the absence of the Governor is not open to the selection of the Ministry, he being expressly recognised in the Royal Commission in the person of the Senior Officer for the time being in command of Her Majesty's Troops.

The Governor however, after the strong way in which his Responsible Advisers have expressed their opinions, considers it to be his duty to forego the leave of absence which the Secretary of State has granted.

CHESTER EARDLEY-WILMOT, *Clerk of the Council.*

---

TASMANIA.  
(No. 29.)  
[EXECUTIVE.]

*Government House, Hobart Town, 20 March, 1858.*

SIR,

WITH reference to your Despatch, No. 79, of the 14th September, 1857, conceding to me leave of absence for Twelve Months, provided no public inconvenience should be likely to result from my absence, and that the Officer in command of Her Majesty's Troops should be able to assume the Government during my absence, I have the honor to enclose copies of the Minutes of the Executive Council, dated 23rd and 24th February and 4th March instant, on this subject.

I have to add to the information contained in these Minutes, that on Friday, the 19th February, the usual day of the meeting of the Executive Council, a postponement took place, at the instance of the Ministry, to Tuesday, the 23rd February; and that I then sent for Mr. Smith, the Premier, and communicated to him my leave of absence, and the Despatch relating to it; and then afterwards sent for Colonel Perceval; and next day, viz. on the 20th February, wrote to the General to move him to allow the Colonel to remain in Tasmania during my proposed absence.

I have now the honor to report that, in deference to the opinions of my Responsible Advisers, I have felt it my duty to remain at my post, and to abstain from availing myself of leave of absence at present.

I have, &c.

H. E. F. YOUNG.

*The Right Hon.* HENRY LABOUCHERE.

---

(No. 7.)

*Downing-street, 9th July, 1858.*

SIR,

I HAVE received your Despatch, No. 29, of the 20th of March last, explaining the circumstances under which you had thought it right, in deference to the decided opinion of your Responsible Ministers, to abstain from availing yourself of the leave of absence which had been granted to you by my predecessor to enable you to visit this Country.

Without entering into a discussion of the opinions expressed on this occasion by the Members of your Government, I have great satisfaction in intimating my sense of the self-denial which you showed in this case, and my approval of the course which you adopted in sacrificing your own personal convenience to what was represented to be the good of the public service.

I have the honor to be,

Sir,

Your most obedient humble Servant,

E. B. LYTTON.

*Governor* SIR HENRY YOUNG, *C.B.*

---