

(No. 28.)



1870.

T A S M A N I A.

LEGISLATIVE COUNCIL.

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**TEMPORARY ABSENCE OF THE GOVERNOR  
FROM THE COLONY.**

DESPATCH FROM SECRETARY OF STATE.

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Laid upon the Table by Mr. Wilson, and ordered by the Council to be printed,  
August 23, 1870.



CIRCULAR.  
TASMANIA.

*Downing-street, 25th August, 1869.*

SIR,

My attention has been recently directed to certain questions which have arisen upon my predecessor's Circular Despatch of the 20th June, 1868, by which a limited power is given to the Governors of Her Majesty's Australian Colonies of absenting themselves for short periods from their Governments, for the purpose of visiting any neighbouring Colony.

I concur in the opinion of my predecessor, that advantage to the public service may fairly be anticipated from the exercise of this limited power. But it is clear that a Governor would be disinclined to avail himself of this power unless the payment of half Salary be secured to him during his absence.

By the different Constitution Acts of the Australian Colonies, the Officer Administering the Government in the absence of the Governor is entitled to receive full Salary during such absence; nor has any provision, that I am aware of, been made for a distribution of the Salary between the Governor and the Officer Administering the Government. But, practically, any difficulty on this point is removed by regulations made by the Imperial Government for such a distribution of the emoluments of Office as the Secretary of State thinks desirable.

I am advised by the Law Officers of the Crown that the Secretary of State may undoubtedly, as a matter of official regulation, require Governors and Officers administering the Governments of Colonies to make such a distribution as appears to him just of the emoluments of the Office; and this power has, as you are aware, been constantly and legitimately exercised in allowing half Salary to Officers who have been appointed to Governorships from the date of their embarkation.

But it appears to me that it would be more satisfactory if provision were made by local Legislation both for the payment of half Salary to a Governor in the case of his absence from the Colony for such short periods and for the purpose mentioned in the Circular Despatch, and for a like payment to the Officer appointed to be the Governor of the Colony from the date of his embarkation, in the cases pointed out in the 104th and 105th paragraphs of the Colonial Rules and Regulations (1867.)

I have to request you, therefore, to bring this Despatch under the notice of your Responsible Ministers, who will, no doubt, give the subject their careful consideration.

I have the honor to be,  
Sir,

Your most obedient humble Servant,  
GRANVILLE.

Governor DU CANE.

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*Colonial Secretary's Office, 3rd December, 1869.*

MEMORANDUM.

Your Excellency's Ministers have had under their consideration the Circular Despatch from Lord Granville, under date the 25th August last.

As regards the Governor's pay during the limited period of absence from the Colony under the authority conveyed in the Duke of Buckingham's Despatch of the 20th June, 1868, Your Excellency's Ministers are of opinion that neither the Legislature nor the Country would wish to see the

privilege by that Despatch accorded to the Governor of visiting any of the adjoining Colonies clogged with a condition involving any forfeiture of the Governor's salary and allowances. It would not be necessary, during so short an absence as that contemplated by the Duke of Buckingham's Despatch, to appoint an *ad interim* Administrator of the Government, and there would, therefore, be no necessity to make provision for the payment of half Salary to an Acting Governor.

The suggestion that the allotment of half Salary to the Officer appointed to be Governor from the date of his embarkation should be regulated by local legislation demands the attention of Your Excellency's Ministers, and shall be brought in due course under the consideration of Parliament.

By the 4th and 5th Sections of the Instructions issued to Your Excellency under the Royal Sign Manual and Signet, Your Excellency is empowered to cause Meetings of the Executive Council to be held in your absence, and to be presided over by "such Member as may be appointed by you in that behalf, or in the absence of such Member by the senior Member of the Executive Council actually present."

This authority seems to be sufficient to provide for the transaction of the ordinary business of the Council during the Governor's temporary absence in the adjoining Colonies, whence, with Submarine Telegraphic connection with Victoria, and constant regular steam communication with Melbourne and Sydney, the Governor could be summoned and return on any special emergency with no more loss of time than from remote localities within the territory of Tasmania and its Dependencies.

In view of the occasional temporary absence of the Governor, Your Excellency's Advisers think it desirable that a Member of the Ministry should be appointed by Your Excellency to preside at any Meeting of the Executive Council required to be held under such circumstances.

I have, &c.,

(Signed)

JAMES MILNE WILSON.

*His Excellency the Governor.*

CIRCULAR.

*Downing-street, 18th March, 1870.*

SIR,

WITH reference to the Circular Despatch of the 20th June, 1868, and 25th August, 1869, and to certain questions which have been raised as to the payment of salary to a Governor during his temporary absence from the Colony under his charge for the purpose of visiting any neighbouring Colony, I have now to inform you that, after further consideration of the subject, it has been thought expedient to provide, by additional Letters Patent, that the powers of the Governor, instead of vesting, as hitherto, immediately upon the absence of the Governor in the Lieutenant-Governor or other Officer appointed by Her Majesty to administer during such absence, shall not so vest until the Officer has been sworn in.

The practical result of this will be, that the Salary granted by the Local Acts to the Officer Administering the Government will not be claimable by him until he has taken the Oaths of Office, and that the Governor will thus be enabled to receive full Salary during the short absences which it has been considered desirable he should take for the purpose of visiting any neighbouring Colony.

I apprehend that no practical injury can accrue from this change, as, under ordinary circumstances, there would be no difficulty in making the necessary arrangements for carrying on the Public Service during these limited absences of the Governor, while, should any emergency arise requiring the presence on the spot of an Officer with full powers of Government, the Lieutenant-Governor or other Officer can at once take the Oaths of Office, and proceed to administer the Government.

I transmit the Letters Patent to which I have above referred, and request that they may be published at your earliest convenience in the Colony.

I have the honor to be,

Sir,

Your most obedient humble Servant,  
GRANVILLE.

*The Officer Administering the Government of Tasmania.*

*VICTORIA, by the Grace of GOD of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to Our Trusty and Well-beloved CHARLES DU CANE, Esquire, Greeting :*

WHEREAS We did, by certain Letters Patent, under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the Twenty-ninth day of December, 1868, in the Thirty-second Year of Our Reign, constitute and appoint you the said Charles Du Cane to be, for and during Our Will and Pleasure, Our Governor and Commander-in-chief in and over Our Colony of Tasmania and its Dependencies, and did further declare Our Pleasure to be, that, in the event of your Death, Incapacity, or Absence out of Our said Colony, all and every the Powers and Authorities therein granted to you should be, and the same were thereby, vested in such Person as might be appointed by Us under Our Sign Manual and Signet to be Our Lieutenant-Governor of Our said Colony, or if there should be no such Lieutenant-Governor, then in such Person or Persons as might be appointed by Us, under Our Sign Manual and Signet, to administer the Government of the same, and in case there should be no Person or Persons within Our said Colony so appointed by Us, then in the Senior Officer for the time being in Command of Our Regular Troops in Our said Colony ; and that such Person or Persons, or such Officer as aforesaid, should have and exercise all and every the Powers and Authorities therein granted until Our further Pleasure should be signified therein.

Now We do declare Our Pleasure to be that in case of your Absence out of Our said Colony, the Powers and Authorities granted to you by Our said Commission shall not be vested in such Lieutenant-Governor, or such other Person or Persons as may from time to time be appointed by us to Administer the Government of Our said Colony, or in such Senior Officer as aforesaid, until such Lieutenant-Governor or other Person or Persons, or Senior Officer, as the case may be, has or have taken the Oaths appointed to be taken by the Governor of Our said Colony, and in the manner provided by the Instructions accompanying Our said Commission.

In Witness whereof We have caused these Our Letters to be made Patent.

Witness Ourselves at Westminster, the Eleventh day of March, in the Thirty-third year of Our Reign.

By Warrant under the Queen's Sign Manual.

C. ROMILLY.