

(No. 31.)



1868.

T A S M A N I A.

LEGISLATIVE COUNCIL.

SCALE OF PRECEDENCE.

DESPATCHES.

Laid upon the Table by Sir R. Dry, and ordered by the Council to be printed,
August 11, 1868.



No. 40.
EXECUTIVE.

Government House, 10th December, 1867.

MY LORD DUKE,

I HAVE the honor to enclose a letter to my address which the Bishop of Tasmania desires me to forward to Your Grace.

Governor
from Bishop,
28 Nov. 1867.

The Bishop objects to the place assigned to him in the Scale of Precedence (Enclosure No. 2), and thinks he should be placed next to the Officer who would succeed the Governor in case of death, as provided in the "Regulations for Her Majesty's Colonial Service."

The Scale of Precedence to which the Bishop objects was prepared in the Executive Council, submitted to Her Majesty's Government, and assented to by Mr. Cardwell, though not without comment.—See his Despatch, Separate, 27th November, 1865.

In framing the Scale in question three data were considered to be absolutely settled, viz.—First, that the Catholic Bishop should follow immediately after the Anglican Bishop, as directed in Lord Grey's Circular Despatch, 20th November, 1847, and the Duke of Newcastle's, 3rd May, 1860. Second, that the Puisne Judge should follow the Chief Justice, as provided for by an Act of the Local Parliament, 19 Victoria, No. 23. Third, that all denominations of Christians are equally recognised in this Colony, and that no denomination should be so specially.

It was proposed that the two Bishops should be placed immediately after the Officer who would succeed the Governor in case of death; but to this it was objected that the Government of Tasmania only recognised the Bishops as the Chief Pastors of their respective denominations, and that they equally recognised the Moderator of the Church of Scotland and the President of the Wesleyans,—consequently, that the Chief Pastors of other denominations must follow immediately after the two Bishops. Reference was then made to Sir John Young, who was good enough to send me the Scale adopted (after mature consideration) in Sydney, and that precedent was followed. (See Enclosure No. 3.)

Your Grace will observe that the Scale adopted in Tasmania is as follows :—

The Officer who would succeed the Governor.
The Chief Justice.
The Puisne Judge (decided by Act of Local Parliament).
The Responsible Ministers.
The Anglican Bishop.
The Catholic Bishop (directed by Circular Despatch as noted above).
The Moderator of the Scotch Church.
The President of the Wesleyans.
 &c. &c. &c.

This Scale was recommended by the Ministers who retired from office in November, 1866; and the gentlemen now in office, to whom I have referred the question, adopt the same view, and recommend that no alteration should be made.

I have, &c.

(Signed) T. GORE BROWNE.

His Grace the DUKE OF BUCKINGHAM.

TASMANIA.
(Separate.)

Downing-street, 7th March, 1868.

SIR,

I HAVE received your Despatch No. 40, of the 10th December last, transmitting a letter which had been addressed to you by the Bishop of Tasmania for the purpose of being submitted to Her Majesty's Government, on the subject of the position which had been assigned to him in the Order of Precedence published by the Local Government in a Public Notice which had been ostensibly issued for the purpose of correcting the List of persons entitled to the entrée at Levees, although, at the same time, it appears to have been assumed that it settled the rank of the functionaries therein referred to in the order in which they stood. The Bishop complains of the effect of this arrangement as placing the head of the English Church in a position considerably below that which was assigned to that Dignitary in the Table of Precedency arranged by Her Majesty's Government. I have carefully considered the question as it has now been submitted to me.

In the first place I must observe, that the Order of Precedence in Her Majesty's Dominions is one of those matters directly connected with the Queen's Prerogative in which the Governor of every dependency should act on directions from Her Majesty or, in default of such directions, on his own judgment as the Representative of the Sovereign independently of the opinion of his Responsible Advisers; although it would, of course, be wise in him to avail himself of their personal knowledge and experience in any such cases, remembering always that adherence so far as possible to a fixed rule or an existing authoritative usage is, on the whole, the surest method of avoiding disputes which are not always conducive to the dignity of those who engage in them.

Next I observe, that Mr. Cardwell sanctioned the scale submitted to him on the assumption that any deviation from the rule laid down by authority in the Colonial Regulations was either prescribed by Colonial Law or was in conformity with usage.

In the present case, I do not understand that any authoritative usage is alleged to exist in derogation of the Colonial Regulations but only as regards the Puisne Judge,—a Local Law declaring that that functionary shall take rank after the Chief Justice,—which rank therefore will properly be given him.

I shall be ready to consider the propriety of submitting for Her Majesty's approval any addition to the Scale of Precedence laid down in the Regulations which you, with reference to the social circumstances of the Colony, might think fit; but, pending the consideration of any such addition, it will be your duty to adhere in this respect to the Table of Precedence as it stands, so far as it relates to the Civil and Ecclesiastical Functionaries of the Colony, and the Officers of Her Majesty's Army and Navy.

I have the honor to be,
Sir,

Your most obedient humble Servant,

BUCKINGHAM & CHANDOS.

Governor Colonel T. GORE BROWNE, C.B.

No. 4.
EXECUTIVE.

Government House, 31st January, 1868.

MY LORD DUKE,

Rev. John
Service to
Governor Gore
Browne.

I HAVE the honor to inform Your Grace that, on the occasion of the visit of His Royal Highness the Duke of Edinburgh to Hobart Town, I received a letter from some Presbyterian and Independent Ministers of Hobart Town, informing me that as "the Bishop of the Church of Rome precedes the Representatives of the Churches to which we belong, we are obliged, with extreme regret, respectfully to intimate to Your Excellency that in such a position as that in which we are placed in that List,—a position in which, as we conceive, an indignity has been done us, and through us to five-sixths of the population,—we can take no official part in the Procession or Levee."

Governor Gore
Browne to Mr.
J. Service.

In reply I informed the writers, that "the Circular Despatch, 20th November, 1847, informed Governor Sir W. T. Denison that Parliament has formally recognised the

rank of the Irish Roman Catholic Prelates, by giving them precedence immediately after the Prelates of the Established Church, and instructs him to conform to the Rule thus laid down by the Legislature."

"The Duke of Newcastle, on 3rd May, 1860, after making a minor alteration, observes that he has no intention to depart from Lord Grey's Despatch, 20th November, 1847."

"Acting on these Despatches, the Regulations of July, 1864, were prepared by the Governor in Council and approved by Mr. Cardwell in 1865."

It was not, therefore, in my power (had I thought it desirable) to alter a Scale of Precedence based on instructions from two Secretaries of State, and confirmed by a third, without reference to Her Majesty's Government.

The Ministers of Religion who signed this letter wished that the Scale of Precedence laid down in the Colonial Regulations for 1867 should be held to have superseded those framed by the Governor in Council and approved by Mr. Cardwell in 1865. I, however, observed to some of the gentlemen who waited on me, that the Scale adopted in the Colonial Regulations of 1867 is that which has been in existence in Crown Colonies long antecedent to the dates of the Circular Despatches upon which the Regulations in question were framed, and that from that Scale the Roman Catholic Prelates are entirely omitted, which after their recognition in Parliament I could not suppose to have been intended.

In conclusion, I may observe that the Roman Catholic Prelates both in Tasmania and Sydney took part in the demonstration to His Royal Highness (the Scale of Precedence being the same in both Colonies), but they declined to do so in Melbourne where a different Scale has been adopted.

I have, &c.,

(Signed) T. GORE BROWNE.

His Grace the DUKE OF BUCKINGHAM.

TASMANIA.
(Separate.)

Downing-street, 24th April, 1868.

SIR,

I HAVE received your Despatch No. 4, of the 31st of January last, enclosing a copy of a letter which you had received from some Presbyterian and Independent Ministers at Hobart Town, on the occasion of the recent visit of His Royal Highness the Duke of Edinburgh, conveying the intimation that, as the Roman Catholic Bishop would take precedence of the Representatives of the Churches to which they belong, they could take no official part in the contemplated Procession or at the Levee.

I regret to learn that the Heads or Representatives of the different persuasions in Tasmania who have signed that letter thought it their duty to abstain from taking any official part in the reception of the Prince.

It does not, however, appear to me necessary to add anything at present to my Despatch Separate of the 7th ultimo, in answer to yours No. 40 of the 10th of December last.

I have further to request that you will inform the Bishop of Tasmania that I have received his Lordship's letter of the 1st of February last bearing on the same subject, of which I enclose a copy for your information, and that you had already been informed, with reference to his previous letter of the 20th November, 1867, that in the absence of any local Law or authoritative usage it would be your duty to conform on these points to the Colonial Regulations. You will at the same time observe to him, that the term Bishop used in those Regulations was intended to include Roman Catholic as well as Anglican Prelates, according to the spirit of Lord Grey's Circular Despatch of the 20th of November, 1847, and subsequent instructions given from time to time by his Lordship

and the Duke of Newcastle. You will also call his Lordship's attention to Sections 218, 219, and 220 of the Colonial Regulations with regard to the mode of conducting correspondence with this Department, and point out that, if the representation which his recent letter contained had called for any fresh decision from me, it would have been necessary, before taking that decision, to have referred it back to you for your report,—a delay which is avoided by adhering to the regular mode of communicating with the Secretary of State through the Governor.

I have the honor to be,
Sir,

Your most obedient humble Servant,

BUCKINGHAM & CHANDOS.

Governor GORE BROWNE, C.B.

No. 22.
EXECUTIVE.

Government House, 20th May, 1868.

MY LORD DUKE,

I HAVE the honor to acknowledge the receipt of Your Grace's Despatch Separate of 7th March, instructing me to adhere to the Table of Precedence as it stands, &c.

2. In my Despatch, 10th December, 1867, No. 40, to which Your Grace's Despatch is an answer, I submitted only the case of Dr. Bromby, Bishop of the Anglican Church; but in my Despatch No. 4, 31st January, 1868, I forwarded a Memorial from certain Ministers of other denominations, complaining of the precedence granted to the Roman Catholic Bishop.

3. As the question of Precedence is not likely to be again brought prominently forward for some time, I shall take the liberty of withholding Your Grace's Despatch, 7th March, 1868, until I am favoured with your decision, after the whole case has been submitted to you.

4. I could have no difficulty in adopting the Scale of Precedence in Her Majesty's Colonial Regulations as Your Grace directs so far as it relates to the Bishop of the Anglican Church, but in Her Majesty's Colonial Regulations the Roman Catholic Prelates are entirely ignored. These Prelates, however, claim precedence immediately after the Anglican Bishop, basing their claim on a recognition of their rank by the Imperial Parliament, communicated to the Governor of this Colony for his instruction and guidance in a Circular Despatch, 30th November, 1847, and re-affirmed by the Duke of Newcastle in Despatch, 3rd May, 1860.

5. Once admitting this unavoidable deviation from Her Majesty's Regulations, fresh difficulties arise. In a Colony where no Established Church is recognised, the members of other religious denominations would demur strongly to the distance thus placed between the heads of their respective bodies and the Prelates of the Anglican and Roman Catholic Churches; while, on the other hand, the Judges and Members of the Executive Council would reasonably complain were the heads of all denominations placed before them in the Scale of Precedence.

6. It was this difficulty which led the Governor of New South Wales (Sir John Young) to revise the Scale of Precedence and to place the Ministers of Religion together, and lower than he would have done had he been able to consider the question as it affects the Prelates of the two Churches only.

7. Assuming that the Scale in force in New South Wales had been approved by Her Majesty's Government, I followed it in this particular for Tasmania, and submitted it to Mr. Cardwell for his consideration. If Your Grace does not approve of this Scale, I beg you will do me the favour to decide the whole question; viz., the place relatively to each other, and to the Civil functionaries, in which the Bishops of the two Churches, the Moderator of the Church of Scotland, and the heads of the Churches of other denominations shall be placed.

I have the honor, &c.,

(Signed) T. GORE BROWNE.

His Grace the DUKE OF BUCKINGHAM.

No. 26.
EXECUTIVE.

Government House, 16th June, 1868.

MY LORD DUKE,

IN obedience to the instructions contained in Your Grace's Despatch, 24th April, 1868, I have substituted the Table of Precedence in Her Majesty's Colonial Regulations for that recently in force in this Colony, and I forward a copy of the notification in the *Gazette*. *Gazette,*
16 June,

I also submit for Your Grace's consideration a list of official personages for whom no place is found in the Table of Precedence in these Regulations, but who hold a recognised position in the Colony; and I beg Your Grace will favour me by deciding how these gentlemen are to be placed with reference to those indicated in the Table of Precedence given in the Colonial Regulations.

I have, &c.,

(Signed) T. GORE BROWNE.

His Grace the DUKE OF BUCKINGHAM.