

NEW SOUTH WALES.

MINUTES OF PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL,

FROM 20 DECEMBER, 1825,

TO 16 AUGUST, 1826,

WITH SUNDRY DOCUMENTS CONNECTED THEREWITH.

Sydney:

PRINTED BY W. W. DAVIES, AT THE GOVERNMENT PRINTING OFFICE,

BENT-~~STREET,~~

—
1847.

MEMBERS

OF

THE LEGISLATIVE COUNCIL,

FROM

20 *DECEMBER*, 1825,

TO

16 *AUGUST*, 1826,

HIS 'EXCELLENCY THE 'GOVERNOR,

THE LIEUTENANT-GOVERNOR,
THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,

THE COLONIAL SECRETARY,
JOHN MACARTHUR, ESQ.,
ROBERT CAMPBELL, SENIOR, ESQ.,

CHARLES THROSBY, ESQ.

*WARRANT appointing a Legislative Council in New South Wales,
dated the 17th day of July, 1825.*

GEORGE R.

Trusty and well beloved We greet you well. Whereas by an Act of Parliament, passed in the fourth year of Our Reign, intituled, " *An Act to provide, until the first day of July, one thousand eight hundred and twenty-seven, and until the end of the next Session of Parliament, for the better Administration of Justice in New South Wales, and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto,*" it is amongst other things enacted, that it shall and may be lawful for Us, Our Heirs and Successors, by Warrant under Our or Their Sign Manual, to constitute and appoint a Council, to consist of such persons, resident in the said Colony, not exceeding seven, nor less than five, as We, Our Heirs and Successors shall be pleased to appoint; and upon the death, removal, or absence of any of the Members of the said Council, in like manner to constitute such and so many other person or persons as shall be necessary to supply the vacancy or vacancies: And whereas, in pursuance of the said Act, and in execution of the powers thereby vested in Us, in that behalf, We did, on or about the sixteenth day of November, in the fifth year of Our Reign, by a Warrant under Our Royal Sign Manual, constitute and appoint Our trusty and well beloved William Stewart, Esquire, Our Lieutenant-Governor of Our Settlements in New South Wales; and Our trusty and well beloved Francis Forbes, Esquire, Our Chief Justice of Our said Settlements, and Our trusty and well beloved the Reverend Thomas Hobbes Scott, Archdeacon of the Archdeaconry of Our said Settlements; and Our trusty and well beloved Frederick Goulburn, Esquire, Our Colonial Secretary of Our said Settlements; and Our trusty and well beloved James Bowman, Esquire, the Principal Surgeon of our said Settlements, to be the Members of the Council of Our Colony of New South Wales, during Our Pleasure: And whereas We have thought fit to revoke Our said Warrant and the appointment of the several persons aforesaid as Members of the said Council: Now We do hereby, in pursuance of the said Act of Parliament, and in execution of the power and authority thereby vested in Us as aforesaid, revoke the said Warrant, bearing date the sixteenth day of November as aforesaid, and the appointment of the several persons therein named as Members of Our said Council. And We do hereby nominate, constitute and appoint Our trusty and well beloved William Stewart, Esquire, Our Lieutenant-Governor of Our said Settlements; Our trusty and well beloved Francis Forbes, Esquire, Our Chief Justice of Our said Settlements; Our trusty and well beloved the Venerable Thomas Hobbes Scott, Archdeacon of the Archdeaconry of Our said Settlements; Our trusty and well beloved Alexander M'Leay, Esquire, Our Secretary of Our said Settlements; Our trusty and well beloved John Macarthur, Esquire; Our trusty and well beloved Robert Campbell, senior, Esquire; and Our trusty and well beloved Charles Throsby, Esquire, to be the Members of Our Council of Our said Territory of New South Wales and its Dependencies, during Our Pleasure. And We do hereby authorize and require and command them to do all such acts and deeds, matters and things, as under and by virtue of the said Act of Parliament may lawfully be done and performed by the Members of Our said Council; and in case of the death, resignation, or departure from Our said Territory of the said William Stewart, Francis Forbes, Alexander M'Leay, or either of them, We do hereby constitute and appoint such other person or persons as shall have lawfully succeeded to Our said Lieutenant-Governor, Our said Chief Justice, or Our said Colonial Secretary, in their, or any of their said offices, to act as, and be for and during Our Will and Pleasure, a Member or Members of Our said Council, in the place and stead of the person or persons to whose office or offices he or they may have so lawfully succeeded as aforesaid. And We do hereby declare, and it is Our Will and Pleasure, that these presents shall take effect at and from the time when the same shall be actually received in Our said Colony of New South Wales, by Our Governor or Acting Governor thereof for the time being, and not before; and that until these presents shall be so received by him, Our said former Warrant, and the several appointments thereby made shall be and continue in force and effect as fully as if these presents had not been made, any thing hereinbefore to the contrary contained in anywise notwithstanding.

Given at Our Court, at Carlton House, the seventeenth day of July, one thousand eight hundred and twenty-five, in the sixth year of Our Reign.

By His Majesty's Command,

(Signed)

BATHURST.

Warrant appointing William Stewart, Esquire, Francis Forbes, Esquire, the Venerable Archdeacon Scott, Alexander M'Leay, Esquire, John Macarthur, Esquire, Robert Campbell, senior, Esquire, and Charles Throsby, Esquire, to be Members of Council in New South Wales.

No. 1.

Council Chamber, 20th December, 1825.

The Warrant appointing the Legislative Council having been read, the undermentioned Members were sworn in accordingly:—

HIS HONOR THE LIEUTENANT GOVERNOR,	
HIS HONOR THE CHIEF JUSTICE,	JOHN MACARTHUR, ESQUIRE,
THE VENERABLE THE ARCHDEACON,	ROBERT CAMPBELL, SEN., ESQUIRE.

6:

No. 2.

No. 2.

Government House, 16th February, 1826.

The Council met pursuant to summons.

PRESENT :—

His Excellency the Governor,

His Honor the Lieutenant Governor,
The Colonial Secretary,
John MacArthur, Esquire.Robert Campbell, Sen., Esquire,
Charles Throsby, Esquire.The Oath of Office was administered to, and subscribed by, Alexander M. Leay, Esq.;
Colonial Secretary, and Charles Throsby, Esq.The Oath of Secresy was administered to, and subscribed by, Henry Grattan
Douglas, Esquire, the Clerk of the Council.

The Council then adjourned.

No. 3.

February, 17th, 1826.

Council met by adjournment, at the House of the Honorable the Chief Justice.

PRESENT :—

His Excellency the Governor,

His Honor the Lieutenant Governor,
The Colonial Secretary,
John MacArthur, Esquire,Robert Campbell, Sen., Esquire,
Charles Throsby, Esquire.His Excellency the Governor was pleased to lay before the Council an Extract from
the King's Instructions, directed to His Excellency, which was ordered to be entered on the
Minutes, and is as follows :—EXTRACT from the Instructions, under the Sign Manual, dated the 17th day of July, 1825,
to the Governor in Chief of the Territory of New South Wales, pointing out the Rules
to be observed by the Legislative Council in passing Laws and Ordinances.

" 9.—And whereas by a certain Act of Parliament, passed in the fourth year of Our
Reign, intituled, " *An Act to provide, until the first day of July, one thousand eight hun-
dred and twenty-seven, and until the end of the next Session of Parliament, for the better
Administration of Justice in New South Wales and Van Diemen's Land, and for the more
effectual Government thereof, and for other purposes relating thereto,*" it is enacted, that it
shall be lawful for Us, in manner therein prescribed, to constitute a Legislative Council, to
consist of such persons as therein mentioned, and that the Governor, or Acting Governor, for
the time being of the said Colony, shall have power and authority to make Laws and Ordi-
nances for the Peace, Welfare, and good Government of the said Colony; and it is thereby
provided, that no Law or Ordinance shall be passed or made unless the same shall first, by
the said Governor or Acting Governor, be laid before the said Council at a Meeting to be for
that purpose convened in manner therein mentioned: And whereas, in pursuance of the said
Act of Parliament, We have by Warrant under Our Sign Manual, constituted and appointed
a Legislative Council, consisting of such persons as are named in the said Warrant: Now
We do hereby strictly require and command you to proceed in the making of Laws and
Ordinances for the Peace, Welfare, and good Government of the said Territory of New South
Wales, with the advice of the said Legislative Council, in the manner and form prescribed
in and by the said Act of Parliament. And for the execution of so much of the powers
vested in you by Our said Commission, and by virtue of the said Act, as relates to the
proposing Laws or Ordinances to the said Council, it is Our Will and Pleasure that you do
carefully observe the following rules, directions, and instructions; that is to say :—

" 10.—You are, as much as possible, to observe in the passing of all Laws, that each
different matter be provided for by a different Law, without intermixing in one and the
same Act such things as have no proper relation to each other; and you are more especially
to take care that no clause or clauses be inserted in, or annexed to any Act, which shall be
foreign to what the title of such respective Act imports; and that no perpetual clause be
part of any temporary Law; and that no Act whatever be suspended, altered, continued,
revived, or repealed by general words, but that the title and date of such Act so suspended,
altered, continued, revived, or repealed, be particularly mentioned and expressed in the
enacting part."

" 11.—And you shall not re-enact any Law to which Our assent has once been
refused, without express leave for that purpose first obtained from Us, upon a full represen-
tation by you to be made to Us, through one of Our Principal Secretaries of State, for Our
information, of the reason and necessity of passing such Law; nor propose the enactment
of any Law repealing any Law passed by the said Legislative Council, whether the same
has or has not received Our Royal approbation, unless you take care that there be a clause
inserted therein suspending and deferring the execution thereof until Our Pleasure shall be
known concerning the same."

" 12.—And it is Our express Will and Pleasure that no Laws whatsoever be made to
continue for less than two years, except only in cases where it may be necessary, upon
some unforeseen emergency, to make provision by Law for a service in its nature temporary
and contingent."

" 13.—And you are particularly enjoined not to pass any Law, or to do any act by grant, deed, conveyance, or otherwise, whereby Our Revenue may be lessened or impaired, without Our special leave or commands therein."

" 14.—And it is Our Will and Pleasure that you do not, upon any pretence whatsoever, propose the enactment of any Law or Ordinance for the Naturalization of Aliens, nor for the Divorce of persons joined together in Holy Matrimony, nor for establishing a title in any persons to lands, tenements, and real estates in Our said Territory or its Dependencies, originally granted to, or purchased by, aliens antecedent to naturalization."

" 15.—And We do hereby will and require you not to propose to the said Legislative Council the enactment of any Law or Ordinance of an unusual and extraordinary nature and importance, whereby Our Prerogative or the property of Our subjects may be prejudiced; nor any Law or Ordinance whereby the trade or shipping of this Kingdom shall be in any way affected, until you shall have first transmitted unto Us, through one of Our Principal Secretaries of State, for Our information, the draft of such Laws or Ordinances, and shall have received Our Royal Pleasure thereupon, unless you take care, in the passing any such Laws or Ordinances as aforesaid, that there be a clause inserted therein suspending and deferring the execution thereof until Our Pleasure shall be known concerning the same."

" 16.—You are also to take care that no Private Law or Ordinance be passed whereby the property of any private person may be affected, in which there is not a saving of the right of Us, Our Heirs and Successors, and of all Bodies, Politic and Corporate, and of all others except such as are mentioned in the said Act, and those claiming by, from, and under them. And further, you shall take care that no such Private Law or Ordinance be passed, without a clause suspending the execution thereof, until the same shall have received Our Royal Approbation. It is likewise Our Will and Pleasure, that you do not propose the enactment of any such Private Law or Ordinance, until proof be made before you in the said Legislative Council, and entered in the Council books, that public notification was made of the parties intention to apply for such Law or Ordinance in the several Churches nearest to the place where the premises in question be, for three Sundays at least successively, before any such Law or Ordinance shall be proposed to the said Legislative Council; and that a Certificate under your hand be transmitted with, and annexed to every such Private Act, signifying that the same has passed through all the forms above mentioned."

" 17.—You are to take care that in all Laws and Ordinances to be passed by Our said Legislative Council, in any case for levying money, imposing fines and penalties, express mention be made, that the same are granted or reserved to Us, Our Heirs and Successors, for the public uses of the said Territory, and the support of the Government thereof, as by the said Act or Order shall be directed."

His Excellency was then pleased to lay before the Council a proposed Law, intituled, "*An Act for repealing the Laws now in force relative to the Licensing and Regulating of Public Houses, and for the better regulating the granting of Licenses for the sale of Ale, Beer, Wine, Spirits, and other Liquors in New South Wales in future,*" which having been read, the further consideration thereof was deferred till Monday next.

His Excellency was further pleased to lay before the Council a proposed Law intituled, "*An Act for the regulation of the Hulk, or Floating Prison in Sydney Harbour,*" which the Council having taken into consideration, was pleased to pass into Law.

His Excellency having been pleased to transmit through his Private Secretary, a Memorial addressed to His Excellency, by the Licensed Victuallers of New South Wales, with regard to certain proposed alterations in the Act for Licensing Public Houses; the Clerk was ordered to invite a deputation of three of the Subscribers to said Memorial, to attend the Council on Monday next, to which day the Council then adjourned.

No. 4.

Council Chamber, 20th February, 1826.

Council met by adjournment.

PRESENT :—

HIS HONOR THE LIEUTENANT GOVERNOR,
THE COLONIAL SECRETARY,
JOHN MACARTHUR, ESQ.,

ROBERT CAMPBELL, SEN., ESQ.,
CHARLES THROSBY, ESQ.

Council was pleased to receive a deputation of the Licensed Victuallers, and having heard their several propositions on the Licensing Act, was pleased to take said Act into further consideration, and pass the same into Law.

No. 5.

Council Chamber, 11th July, 1826.

Council met pursuant to Summons.

PRESENT :—

HIS EXCELLENCY THE GOVERNOR,

HIS HONOR THE LIEUTENANT GOVERNOR,
HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,
THE HONORABLE THE COLONIAL SECRETARY,

THE HONORABLE JOHN MACARTHUR,
THE HONORABLE ROBERT CAMPBELL,
THE HONORABLE CHARLES THROSBY.

His Excellency was pleased to lay before the Council the following proposed Laws.

1st—"*An Act to repeal an Act, intituled, 'An Act to make Promissory Notes and Bills of Exchange payable in Spanish Dollars, available as if such Notes and Bills had been drawn payable in Sterling Money of the Realm,' and to promote the circulation of Sterling Money of Great Britain, in New South Wales.*"

2nd.—

2nd.—“ *An Act for vesting the Orphan School Estates in the Trustees of the Clergy and School Lands of New South Wales, and for duly governing the children at School and in Apprenticeship.*”

3rd.—“ *An Act to legalize transportation to Penal Settlements, to authorize other punishments, and to enable the Governor, or Acting Governor, to distribute Convicts in the Colony.*”

At this meeting it was ordered.

That Minutes of Orders be kept in a separate Book to be intituled, “*The Order Book of the Honorable the Legislative Council.*”

The Council then took into consideration the first proposed Law, after which the Council adjourned to the 12th instant, at nine o'clock.

No. 6.

Council Chamber, 12th July, 1826.

Council met by adjournment.

PRESENT :—

HIS HONOR THE LIEUTENANT-GOVERNOR,		THE HONORABLE THE COLONIAL SECRETARY,
HIS HONOR THE CHIEF JUSTICE,		THE HONORABLE ROBERT CAMPBELL,
THE VENERABLE THE ARCHDEACON,		THE HONORABLE CHARLES THROSBY.

The Council proceeded to take into consideration the first proposed Law, intituled, “*An Act to repeal an Act, intituled, 'An Act to make Promissory Notes and Bills of Exchange payable in Spanish Dollars available, as if such Notes and Bills had been drawn payable in Sterling Money of the Realm;' and to promote the circulation of Sterling Money of Great Britain in New South Wales;*” which Council was pleased to pass into Law.

The Council then proceeded to take into consideration a proposed Law intituled, “*An Act for vesting the Orphan School Estates, in the Trustees of the Clergy and School Lands of New South Wales, and for duly governing the children at School and in Apprenticeship.*”

Council then adjourned till Tuesday next at eleven o'clock.

It was Ordered at this Meeting that all Bills and Messages, be taken up to the Governor by two Members of Council.

No. 7.

Council Chamber, 18th July, 1826.

Council met pursuant to adjournment.

PRESENT :—

HIS HONOR THE LIEUTENANT-GOVERNOR,		THE HONORABLE THE COLONIAL SECRETARY,
HIS HONOR THE CHIEF JUSTICE,		THE HONORABLE ROBERT CAMPBELL,
THE VENERABLE THE ARCHDEACON,		THE HONORABLE CHARLES THROSBY.

Council proceeded to take into consideration a proposed Law intituled, “*An Act for vesting the Orphan School Estates in the Trustees of the Clergy and School Lands, &c., &c.*” Further consideration postponed.

Council then took into consideration, “*A Bill to legalize Transportation to Penal Settlements, &c., &c., &c.*”

Ordered to lie on the Table.

Ordered :—

That the Chief Justice, the Archdeacon, and Colonial Secretary, do wait on the Governor, and confer with him on the Bill respecting the Church and School Lands.

Council then adjourned to Wednesday next.

No. 8.

Council Chamber, 26th July, 1826.

Council met by adjournment.

PRESENT :—

HIS HONOR THE LIEUTENANT-GOVERNOR,		THE HONORABLE THE COLONIAL SECRETARY,
HIS HONOR THE CHIEF JUSTICE,		THE HONORABLE ROBERT CAMPBELL,
THE VENERABLE THE ARCHDEACON,		THE HONORABLE CHARLES THROSBY.

Council proceeded to take into further consideration, “*A Bill for vesting the Orphan School Estates in the Trustees of the Clergy and School Lands, &c., &c., &c.*”

Further consideration postponed.

Council then adjourned to Wednesday next.

No. 9.

Council Chamber, 2 August, 1826.

PRESENT :—

HIS HONOR THE LIEUTENANT-GOVERNOR,
HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,

THE HONORABLE THE COLONIAL SECRETARY,
THE HONORABLE ROBERT CAMPBELL,
THE HONORABLE CHARLES THROSBY,

Council proceeded to take into consideration a proposed Law intituled, "*An Act for resting the Orphan School Estates in the Trustees of the Clergy and School Lands of New South Wales, and for duty governing the Children at School and in Apprenticeship,*" and were pleased to pass the same into Law.

Council then proceeded to take into consideration a proposed Law intituled, "*An Act to legalize Transportation to Penal Settlements, to authorize other punishments, and to enable the Governor or Acting-Governor to distribute Convicts in the Colony,*" which was ordered to lie on the Table.

Council then adjourned to Thursday the ninth instant.

No. 10.

Council Chamber, 9th August, 1826.

PRESENT :—

HIS HONOR THE LIEUTENANT GOVERNOR,
HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,

THE HONORABLE THE COLONIAL SECRETARY,
THE HONORABLE ROBERT CAMPBELL.

Council took into further consideration a proposed Law, "*To legalize the Transportation of offenders to Penal Settlements.*"

Further consideration postponed to Wednesday next.

Council then adjourned to that day.

No. 11.

Council Chamber, 16th August, 1826.

PRESENT :—

HIS HONOR THE LIEUTENANT-GOVERNOR,
THE VENERABLE THE ARCHDEACON,

THE HONORABLE THE COLONIAL SECRETARY,
THE HONORABLE ROBERT CAMPBELL.

Council proceeded to take into further consideration a proposed Law, intituled "*An Act for the Transportation of offenders to Penal Settlements, and for the more effectual punishment and security of the same;*" and were pleased to pass the same into Law.

Council then adjourned, *sine die*.

