

NEW SOUTH WALES.

MINUTES OF PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL,

DURING THE YEAR

1831,

WITH SUNDRY DOCUMENTS CONNECTED THEREWITH.

Sydney:

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1847.

MEMBERS

OF

THE LEGISLATIVE COUNCIL,

1834.

HIS EXCELLENCY THE GOVERNOR,

HIS HONOR THE CHIEF JUSTICE,

THE VENERABLE THE ARCHDEACON,

THE HONORABLE THE COLONIAL SECRETARY,

THE ATTORNEY GENERAL,

THE CONTROLLER OF CUSTOMS,

THE AUDITOR GENERAL,

COLONEL LINDSAY,

JOHN MACARTHUR, Esq.,

ROBERT CAMPBELL, Esq.,

RICHARD JONES, Esq.,

JOHN BLAYLAND, Esq.,

EDWARD CHARLES CLOSE, Esq.,

ALEXANDER BERRY, Esq.,

HANNIBAL HAWKINS MACARTHUR, Esq.

MINUTE No. 1.

Council Chamber, Tuesday, 20th September, 1831.

Present, pursuant to summons :—

His EXCELLENCY THE GOVERNOR,

HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,
THE HONORABLE THE COLONIAL SECRETARY,
THE ATTORNEY GENERAL,
THE CONTROLLER OF CUSTOMS,
THE AUDITOR GENERAL,
COLONEL LINDESAY,

ROBERT CAMPBELL Esq.,
ALEXANDER BERRY, Esq.,
RICHARD JONES, Esq.,
JOHN BLAXLAND, Esq.,
EDWARD CHARLES CLOSE, Esq.,
HANNIBAL HAWKINS MACARTHUR, Esq.

1. John Kinchela, Esq., as Attorney General, and Burman Langa, Esq., as Chief Officer of the Customs, in the absence of Michael Cullen Cotton, Esq., Collector, took and subscribed the Oaths required by the Imperial Act 9 George IV., c. 83, as Members of the Legislative Council.
2. The several Members then took and subscribed the Oaths of Allegiance to His Most Gracious Majesty King William, of Assurance, Supremacy, and Abjuration, and subscribed the Declaration against Transubstantiation.
3. His Excellency the Governor then laid before the Council an " Abstract of the Revenue of the Colony of New South Wales, and of its Appropriation, for the years 1829 and 1830," which was read and ordered to lie on the Table.
4. The Governor next presented the following Minute, for the consideration of the Council, viz :—
 " His Excellency the Governor in laying before the Council a Statement of the Revenue and Expenditure of last year, together with a Comparative Statement of the same for the years 1829 and 1830, recommends to the Council that the sum of one hundred and fifty pounds per annum be allowed to enable the Attorney General to provide a Clerk, that officer having represented that it is out of his power, without such assistance, to prevent the business of his office falling in arrear, which it is most desirable to avoid, as it would be attended with serious injury to the public service.
 " It is also recommended that a sum not exceeding sixty pounds be allowed for the expense of furnishing and fitting up the Public Office of the Attorney General, so as to enable that officer to preserve in a proper manner the Records and other public Documents which are deposited in or pass through his office, as the loss or injury of any of those Records or Documents, which cannot otherwise be prevented, would be a serious evil.
 " It is further recommended that a sum not exceeding twenty-five pounds per annum be allowed to meet the expense of providing Stationery for the office of the Attorney General, the actual expenditure only to be charged and certified by that officer."

(Signed)

" R. A. DARLING. "

19th September, 1831.

The question was then put that the several sums mentioned in the foregoing Minute be appropriated in the manner therein recommended, and carried unanimously in the affirmative.

5. His Excellency the Governor then laid before the Council the following Bill, intituled, " *A Bill to repeal so much of an Act to amend an Act, intituled, ' An Act for preventing the mischiefs arising from the printing and publishing Newspapers and Papers of a like nature by persons not known, and for regulating the printing and publication of such Papers in other respects, and also for restraining the abuses arising from the publication of blasphemous and seditious libels; and for further restraining the abuses arising from the publication of slanderous and libellous matter, as relates to the sentence of banishment for the second offence.*"

The Bill was read a first time, and on the motion of the Colonial Secretary, seconded by the Auditor General, it was ordered to be read a second time on Tuesday, the 27th September instant.

6. The Governor next laid before the Council the following Bill, which was read a first time, intituled, " *A Bill to continue to a further period, an Act, intituled, ' An Act for regulating the constitution of Juries for the Trial of Civil Issues in the Supreme Court of New South Wales ;'*" and also an Act, intituled, " *An Act to amend an Act for regulating the constitution of Juries for the Trial of Civil Issues in the Supreme Court of New South Wales.*"

On the motion of Hannibal H. Macarthur, Esq., seconded by Richard Jones, Esq., it was ordered that this Bill should be referred to a Sub-Committee.

His Excellency the Governor then nominated the following Members to form the Sub-Committee in question, who were balloted for individually, and elected unanimously, viz :—

HIS HONOR THE CHIEF JUSTICE,
THE HONORABLE THE COLONIAL SECRETARY,
THE ATTORNEY GENERAL,

ROBERT CAMPBELL, Esq.,
RICHARD JONES, Esq.,
HANNIBAL HAWKINS MACARTHUR, Esq.

7. The Governor then laid before the Council the following Bill, which was read a first time, intituled, " *A Bill to extend and apply the form of Trial by Juries to certain crimes and misdemeanors.*"

The

- The Council, on the motion of the Colonial Secretary, seconded by the Auditor General, having resolved itself into a Committee, the Chief Justice, seconded by the Archdeacon, moved, that this Bill be referred to the Sub-Committee appointed to consider the Jury Bill, which was agreed to.
8. The Governor then laid before the Council the following Bill, which was read a first time, intituled, "*A Bill for permitting the importation into New South Wales of Spirits the produce of the British Possessions in North America, upon payment of the same rate of duty as is chargeable on the importation of Spirits the produce of the United Kingdom, or of the British West Indies.*"
- The Colonial Secretary then moved, that this Bill be read a second time, on Tuesday, the 27th instant, which motion, having been seconded by the Controller of Customs, was agreed to.
9. The Governor next laid before the Council the following Bill, intituled, "*A Bill to enable the Members of a certain Society in the Colony of New South Wales, denominated 'The Benevolent Society,' to sue and be sued in the name of their Treasurer for the time being, and for other purposes therein mentioned.*"
- The Bill having been read a first time, the Council, on the motion of the Archdeacon, seconded by Richard Jones, Esq., resolved itself into a Committee thereon.
- The Archdeacon then moved, that the Bill be referred to a Sub-Committee, which motion was seconded by the Colonial Secretary, and agreed to.
- His Excellency the Governor then nominated the following Members to be upon the Sub-Committee in question, who were ballotted for individually, and elected unanimously, viz:—

THE VENERABLE THE ARCHDEACON,

THE ATTORNEY GENERAL,
ALEXANDER BERRY, Esq.,

RICHARD JONES, Esq.,
JOHN BLAXLAND, Esq.

The Council then adjourned to Tuesday, the twenty-seventh of September instant, at Twelve o'clock.

E. DEAS THOMSON,
Clerk of the Council.

MINUTE No. 2.

Council Chamber, Tuesday, 27th September, 1831.

Present, pursuant to adjournment:—

HIS EXCELLENCY THE GOVERNOR,

HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,
THE HONORABLE THE COLONIAL SECRETARY,
THE ATTORNEY GENERAL,
THE CONTROLLER OF CUSTOMS,
THE AUDITOR GENERAL,

COLONEL LINDESAY,
ALEXANDER BERRY, Esq.,
RICHARD JONES, Esq.,
JOHN BLAXLAND Esq.,
EDWARD CHARLES CLOSE, Esq.,
HANNIBAL HAWKINS MACARTHUR, Esq.

- The Order of the day for the second reading of the Newspaper amendment Bill having been moved, the same was read a second time accordingly.
The Colonial Secretary then moved that the Standing Orders be suspended, and that this Bill be now read a third time, which motion, having been seconded by the Chief Justice, was carried unanimously.
The Bill was accordingly read a third time and passed.
 - The Order of the day having been then moved for the second reading of the Canada Spirits Bill, the same was read a second time accordingly.
The Chief Justice, seconded by the Colonial Secretary, having moved an amendment on this Bill, the Council resolved itself into a Committee thereon, and the clauses were read *seriatim*, and amended.
The Chief Justice, seconded by the Auditor General, then moved, that this Bill, as amended, be fairly transcribed by the Clerk, and carried to the Governor by the Colonial Secretary and Controller of Customs for His Excellency's consideration.
 - The Chief Justice, as Chairman of the Committee on the Jury Bills; reported progress.
 - The Archdeacon, as Chairman of the Committee on the "Benevolent Society" Bill, also reported progress.
- The Council then adjourned to Friday, the thirtieth September instant.

E. DEAS THOMSON,
Clerk of the Council.

MINUTE No. 3.

Council Chamber, 30th September, 1831.

Present, pursuant to adjournment:—

HIS EXCELLENCY THE GOVERNOR,

HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,
THE HONORABLE THE COLONIAL SECRETARY,
THE ATTORNEY GENERAL,
THE CONTROLLER OF CUSTOMS,
THE AUDITOR GENERAL,
COLONEL LINDESAY;

ROBERT CAMPBELL, Esq.,
ALEXANDER BERRY, Esq.,
RICHARD JONES, Esq.,
JOHN BLAXLAND, Esq.,
EDWARD CHARLES CLOSE, Esq.,
HANNIBAL HAWKINS MACARTHUR, Esq.,

- His Excellency the Governor informed the Council that he had withdrawn, for the present, the "Benevolent Society" Bill. 2.

2. The Governor then stated, that having approved of the amendments proposed by the Committee on the following Bill, he now laid the same again before the Council, intituled "*A Bill for permitting the importation into New South Wales of Spirits the produce of the British Possessions in North America, upon payment of the same rate of duty as is chargeable on Spirits, the produce of the British West Indies.*" On the motion of the Colonial Secretary, seconded by the Auditor General, this Bill was then read a third time, and *passed*.
3. The Chief Justice, as Chairman of the Committee appointed to consider the provisions of the Jury Bills, presented the same in a consolidated and amended form, which was accordingly read.
- The Colonial Secretary then moved that this Bill be re-considered on Friday, the 14th proximo, which motion having been seconded by Mr. Berry, was agreed to, and the Council adjourned to that day accordingly.

E. DEAS THOMSON,
Clerk of the Council.

MINUTE No. 4.

Council Chamber, Friday, 14th October, 1831.

Present, pursuant to summons :—

HIS EXCELLENCY THE GOVERNOR,

HIS HONOR THE CHIEF JUSTICE,
THE VENERABLE THE ARCHDEACON,
THE HONORABLE THE COLONIAL SECRETARY,
THE ATTORNEY GENERAL,
THE CONTROLLER OF CUSTOMS,
THE AUDITOR GENERAL,

COLONEL LINDESAY,
ROBERT CAMPBELL, ESQ.,
ALEXANDER BERRY, ESQ.,
RICHARD JONES, ESQ.,
EDWARD CHARLES CLOSE, ESQ.,
HANNIBAL HAWKINS MACARTHUR, ESQ.

1. The Order of the Day was moved for the re-consideration of the Jury Bill, and on the motion of Mr. Jones, seconded by Mr. Berry, it was ordered to be read a second time this day two months.

Colonel Lindesay having withdrawn,—

His Excellency the Governor laid before the Council, the following Minute, viz :—

" Colonel Lindesay having represented that he has been subjected to much expense, in consequence of the public Situations which he has held under the Civil Government (being a Member of the Executive, as well as of the Legislative Council) for the last four years, and having received no Allowance of any kind or description whatever, but having more especially found it necessary to keep a Carriage for the due support of his station, and the better to enable him to attend the Executive Council, when suddenly required, as is frequently the case; I have felt no hesitation, under the circumstance stated, in bringing Colonel Lindesay's case under the consideration of the Council; and I avail myself with much satisfaction of this opportunity of recording my opinion of the zeal with which that officer has devoted himself to the service of the Colony, regretting that I do not feel myself at liberty to propose to the Council, that he should be remunerated as his services merit. As Colonel Lindesay, however, has kept a Carriage, as above pointed out, I beg to recommend that an allowance for *two* horses, at the rate of 2s. 6d. a day each, being the usual Colonial allowance, be granted from the Revenue of the Colony, from the 1st day of the present year."

(Signed) " RA. DARLING."

Government House, 14th October, 1831.

It appearing to be the wish of the Council, on the Governor's Minute being read, that the allowance in question should commence from the date of Colonel Lindesay's appointment as a Member of the Legislative Council, His Excellency was induced to propose it accordingly, and it was unanimously agreed to.

2. The business of the day having closed, the Chief Justice rose and stated to His Excellency the Governor that he had been deputed by the other Members of the Council to present to him the following Address, which he accordingly read, viz :—

" To His Excellency Lieutenant General Darling,
&c., &c., &c.

" SIR,

" We, the Members of the Legislative Council in New South Wales, are anxious, on the conclusion of your Excellency's administration, to offer a sincere and unanimous expression of the sentiments which we entertain towards you, as the Representative of our Most Gracious Sovereign.

" The cordiality and good feeling which have subsisted between your Excellency and the Legislative Body, we attribute, in a great degree, to the freedom from interference with which we have been permitted to deliberate upon every measure which, under a sense of public duty, your Excellency has brought before us for the benefit and security of the Colony. Whatever may be the character and effect of those measures, we are sensible that this Council, by adopting them, has taken upon itself an equal share of the

" responsibility which attaches to them. If we were to particularize any of the acts
 " which will most permanently mark the period of your Excellency's presiding over us,
 " we should refer to those by which great progress has been made towards the general
 " establishment of Trial by Jury; to the control which the Legislative Authority has,
 " for the first time, exercised over the duties hitherto levied by Proclamation; and to
 " those coercive measures of the last Session, which we are sensible that nothing but the
 " penal character of this Settlement, and the disturbed state of the Country, at that
 " time, could have justified; but the expediency of which act of vigour has in the event
 " been proved by the restoration of general tranquillity.
 " It cannot but be a source of lasting pride and satisfaction to your Excellency to
 " reflect that you leave the Colony in this state of internal security; that, notwithstand-
 " ing a continuance of disastrous seasons, its natural resources have been gradually and
 " strikingly developed; and that its increasing Foreign Commerce is testified by the
 " daily accession of vessels to our Ports, and the extension of all our mercantile relations.
 " We trust that your Excellency's successor will have the gratification of witnessing an
 " increase of that prosperity, the ground-work of which is already securely laid; and
 " we request you, in vacating the Government, to accept our congratulations on the
 " prospects under which he will assume it. We desire to express, collectively and
 " individually, our unabated esteem for your Excellency; and that, after a safe return to
 " your native country, you may, together with your family, enjoy many years of health,
 " happiness, and prosperity, is, we beg to assure you, the unfeigned prayer of,

" Sir,

" Your Excellency's

" Most obedient and very humble servants,

" FRANCIS FORBES, Chief Justice,
 " WILLIAM GRANT BROUGHTON, Archdeacon,
 " ALEXANDER M'LEAY, Colonial Secretary,
 " JOHN KINCHELA, Attorney General,
 " BURMAN LAUGA, Chief Officer of Customs,
 " WILLIAM LITHGOW, Auditor General of Colonial Accounts,
 " PATRICK LINDESAY, Colonel,
 " ROBERT CAMPBELL,
 " ALEXANDER BERRY,
 " RICHARD JONES,
 " EDWARD CHARLES CLOSE,
 " HANNIBAL HAWKINS MACARTHUR."

(Signed)

His Excellency the Governor was pleased to return the following Reply, viz:—

" To the Members of the Legislative Council.

" GENTLEMEN,

" It is, I assure you, very gratifying to me to receive at this moment, on the eve of my
 " separation from you, this testimony of your sentiments and regard.
 " I thank you unfeignedly for the able assistance which on all occasions you have so
 " cordially afforded me, in perfecting the various important measures which it has been my
 " duty to bring under your consideration. I have no claim to any merit for having
 " abstained from endeavouring to control your discussions; I knew that the object of His
 " Majesty's Government—the true interests of the Colony—would be best promoted
 " by leaving you to the free exercise of your own judgment. As to one of the measures
 " to which you more immediately allude, it was calculated to meet the exigency of the
 " times, and the result is happily exemplified by the security which the inhabitants
 " throughout the Colony now enjoy in their persons and property.
 " It affords me, indeed, peculiar satisfaction, after the long continuance of disastrous
 " seasons with which the Colony has been visited, and the consequences resulting from
 " such a calamity, to be enabled to transfer my charge in the improved and gratifying
 " state which you have described. The character of my successor is the best promise
 " that the internal resources of the Colony will be cultivated to the utmost; and that its
 " agriculture and commerce will be fostered and extended by every possible means.
 " Feeling, Gentlemen, as I sincerely do, an anxious desire for the prosperity of your
 " adopted Country, I cannot be indifferent to yours; and I beg you will believe, that indi-
 " vidualy, as well as in your collective capacity, forming the Legislative Body of this
 " Colony, I shall ever take a lively interest in your happiness and success; and I ardently
 " hope, that the tranquillity which the Colony now enjoys may meet with no interruption;
 " that the bright prospects which the improved state of your commerce, and the late seasons,
 " have opened to you, may be confirmed, and that your families may long continue to feel
 " the benign influence of these great blessings.

" With sentiments of sincere regard,

" I remain,

" Gentlemen,

" Your faithful friend and servant,

(Signed)

" R. A. DARLING."

" Government House, 14th October, 1831."

Qa.

On the motion of the Archdeacon, seconded by the Attorney General, it was ordered, that the Address, and the Answer of His Excellency the Governor be recorded in the Minutes of the Proceedings.

It was then moved by Mr. Jones, that the Clerk of the Council be instructed to have the Address and the Reply printed, and ten copies transmitted to each Member, which motion having been seconded by Mr. Hannibal Hawkins Macarthur, was agreed to.

The Council then adjourned, *sine die*.

E. DEAS THOMSON,
Clerk of the Council.

MINUTE No. 5.

Council Chamber, 8th November, 1831.

Present, pursuant to summons:—

His Excellency the Acting Governor,	
His Honor the Chief Justice,	JOHN MACARTHUR, Esq.,
The Venerable the Archdeacon,	ROBERT CAMPBELL, Esq.,
The Honorable the Colonial Secretary,	ALEXANDER BERRY, Esq.,
The Attorney General,	JOHN BLAXLAND, Esq.,
The Controller of Customs,	EDWARD CHARLES CLOSE, Esq.
The Auditor General,	

1. His Excellency the Acting Governor laid before the Council the following Minute, which was read by the Clerk, viz:—

" His Excellency the Acting Governor has the honor to inform the Council, that the Right Honorable the Secretary of State for the Colonies has sanctioned the erection of certain Parsonage Houses for the accommodation of the Clergy; and the Venerable the Archdeacon having called his attention to the propriety of a Clergyman being stationed at the Township of Goulburn Plains, to have the superintendence of the Counties of St. Vincent and Argyle, and to the necessity of a House being erected for his accommodation, His Excellency begs to recommend to the Council that the sum of five hundred pounds be appropriated out of the Colonial Revenue for this purpose.

(Signed)

" P. LINDESAY."

" Government House, 8th November, 1831."

The question was then put that the sum mentioned in the foregoing Minute be appropriated in the manner therein recommended, and carried unanimously in the affirmative.

2. His Excellency the Acting Governor then brought under the consideration of the Council the following Minute, viz:—

" His Excellency the Acting Governor takes this opportunity of stating to the Council that the Right Honorable the Secretary of State for the Colonies has been pleased to signify his approval of the establishment in this Colony of two Schools, to be designated the King's Schools, the one at Sydney, capable of receiving one hundred scholars, the other at Parramatta, capable of accommodating from sixty to eighty boarders, and day scholars.

" His Excellency has further to observe, that the Commissioners for managing the affairs of the Church and School Estates have submitted to him an arrangement for carrying into effect that part of the design which relates to the establishment of the School at Sydney, namely; that the two rooms now occupied by the boys and girls of the Parochial Schools attached to St. James's Church, should be appropriated for this purpose. It is to be observed, that these rooms, though not capable of containing the whole contemplated number of one hundred scholars, would yet be capacious enough for the reception of the King's School on its first formation, and until the disposition of the public to support it shall have been ascertained. By this arrangement it will be necessary that a place should be provided for the reception of the scholars of the National Schools, for which the Commissioners are of opinion that the vaulted crypts under St. James's Church would be found suitable, if a moderate sum were laid out in cleansing, lighting, ventilating, and otherwise adapting them to that object.

" By an estimate procured from an experienced Architect, it appears, that the cost of so fitting up the crypts of the Church, would amount to one hundred and thirty-four pounds four shillings; His Excellency therefore recommends to the Council that that sum should be appropriated out of the Colonial Funds for the purpose in question; and that a further sum of seventy pounds should also be authorized for the expense to be bestowed on the rooms in which it is proposed the King's School should be conducted.

(Signed)

" P. LINDESAY."

" Government House, 8th November, 1831."

The question was then put that the several sums mentioned in the foregoing Minute be appropriated in the manner therein recommended, and carried unanimously in the affirmative.

3. His Excellency the Acting Governor then laid before the Council the following Minute, viz:—

" His Excellency the Acting Governor, in pursuance of instructions from the Right Honorable the Secretary of State, has the honor to inform the Council, that His Lordship has been pleased to consent to an advance from the Colonial Treasury of a sum not exceeding three thousand five hundred pounds, to the Reverend Dr. Lang, in aid of an Academical Institution, to be formed in Sydney, on the principles of the Schools and Colleges of Scotland.

" It

" It is intended that this advance should be made in different payments in the course of
 " eighteen months next after Dr. Lang's landing in New South Wales, on condition that pre-
 " vious to each advance an equal sum shall have been actually expended from the private
 " contributions of the promoters of the undertaking, and that security be given on the pro-
 " posed buildings which are to be erected on the Scotch Church Estate, for the repayment in
 " five years of the money advanced from the Colonial Treasury; the five years to be cal-
 " culated on each instalment from the date of its being advanced to the Trustees who may be
 " appointed.

" The Secretary of State has also subsequently consented to an advance of one thousand five
 " hundred pounds, being part of the three thousand five hundred pounds above alluded to,
 " being made to Dr. Lang immediately on his arrival in the Colony with a certain number
 " of immigrants; and as Dr. Lang has now arrived and fulfilled the condition upon which
 " this advance was to be made to him, His Excellency recommends to the Council that the
 " sum of one thousand five hundred pounds should accordingly be paid to Dr. Lang from
 " the Colonial Treasury, it being understood that no further advance will be made to him on
 " this account until a sum equal to that amount shall be actually expended upon the proposed
 " buildings.

(Signed)

" P. LINDESAY."

" Government House, 8th November, 1831."

The question was then put that the sum of fifteen hundred pounds should be appropriated in
 the manner recommended in the foregoing Minute, and carried unanimously in the affirm-
 ative; security to be taken on the proposed buildings for its repayment, in such manner as
 may be judged expedient by the Attorney General.

The Council then adjourned, *sine die*.

E. DEAS THOMSON,
 Clerk of the Council.

PART II,
COMPRISING THE VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL,
FROM 1832 TO 1837, INCLUSIVE.



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