

CORRESPONDENCE

RELATIVE TO THE

APPOINTMENT OF A LIEUT.-GOVERNOR

DURING THE ABSENCE OF HIS EXCELLENCY THE GOVERNOR

FROM THE

SEAT OF GOVERNMENT.

*Presented to the Honourable the House of Representatives by command of His Excellency,
in Return to an Address of the House of the 21st July, 1858.*

AUCKLAND:

1858.

Government House,
Auckland, New Zealand,
5th September, 1856.

SIR,—

I have the honor to transmit certain resolutions from the Houses of the Assembly relative to the place where it is proposed to hold the next Session of the Assembly, and my Messages in answer to the same.

2. In accordance with the views explained in the last Message, I have the honour to request that I may be empowered to nominate the Senior Officer Commanding the Troops to act as Lieutenant Governor whenever it may be necessary that I should be absent from Auckland for more than a few days.

3. If you are pleased to approve this request, I venture to suggest that he should have all the powers entrusted to the Governor, subject to such instructions as it may be found necessary to give him from time to time.

4. The Governor cannot authorise the execution of a prisoner sentenced to death without consulting his Executive Council, but as it is certain that the Governor and Lieutenant Governor cannot both be in the same place with the Executive Council, I beg to submit that both may be directed to act in accordance with Section 23 of the instructions of 9th February, 1855, and not required to communicate with the Executive Council, as delays have more than once led to disturbances, which have been reported when they occurred.

5. Finally, I beg your instructions as to what salary I shall propose for the Lieutenant Governor, as the appointment is never likely to be of long duration; under existing arrangements, it would be advisable that he should not lose any of his military advantages: but this, if approved, will also require your sanction.

I have the honour to be, Sir,
Your obedient servant,
(Signed,) T. GORE BROWNE.

The Right Honourable
Henry Labouchere, M.P.,
&c., &c., &c.

Downing Street,
4th October, 1857.

SIR,—

I have had a long time under my consideration your Despatch of the 5th September, 1856, transmitting certain resolutions from the two Houses of the New Zealand Legislature relative to the place where it was then proposed to hold the next Session of the Assembly, because I felt considerable difficulty in dealing with your proposal respecting the appointment of a Lieutenant Governor on such information as was given by your Despatch, and it appeared to me probable that I should receive from you the results of some further deliberations on the subject.

2. Nor am I at present prepared to recommend to Her Majesty the course which you propose. The appointment of a Lieutenant Governor with the powers of a Governor for a part of the Province, would be a very unusual step in the Government of Her Majesty's Colonial possessions, and one, moreover, which I should unwillingly promote, as tending still farther towards that division of authority which appears to be already the cause of much inconvenience in New Zealand.

3. I think that all the objects strictly requisite might be attained by empowering you to nominate an Officer not as Lieutenant Governor, but by some other title conveying a less shew of authority, (such as Chief Magistrate) to perform such specific functions during your absence as the Legislature might by enactment think proper to entrust to him. The Legislature must also fix and secure the requisite salary. If the question were left to myself I should say that payment at the rate of Six Hundred Pounds a year would be sufficient.

4. As it appears from the resolutions, that the chief purpose of such an appointment would be for the transaction of affairs arising out of the relations of the local Government with the Natives, I am of opinion that the appointment should rest with yourself (subject to the sanction of the Crown); and although I should wish you to act in harmony as far as possible with your Executive Council, I do not prescribe to you the rule of regarding their consent as necessary.

5. Such is the best instruction which I am able to give you on the subject: but it rests with the Legislature, as I have said, to make provision for such an office as I have here indicated.

6. I am not certain that I understand the question which you have raised in this Despatch respecting sentences of death. Whether your enquiry merely is, if the preliminary step of consulting the Judge may not be taken without the advice of the Executive Council, or whether you are anxious for

authority to authorise executions without their advice, if delay be occasioned by the necessity for consulting them; I can, therefore, only lay it down as a general rule, that although the Council are the proper and legitimate advisers of the Governor, yet where executive measures absolutely require to be taken without the delay which communication with that body would require, the Governor must act on his own responsibility, explaining fully the reasons which have led him to do so.

I have, &c.,

(Signed,) H. LABOUCHERE.

Governor Thomas Gore Browne, C. B.,
&c., &c., &c.

Government House,
Auckland, New Zealand,
9th February, 1858.

SIR,—

I have the honor to acknowledge the receipt of your Despatch, No. 73, dated 4th October, 1857, and regret that my Despatch to which it refers was not sufficiently explanatory.

2. As the resolutions of the two Houses of the Legislature and the Message in reply enclosed in my Despatch, referred entirely to the meeting of the Assembly at Wellington, I used the name "Auckland" in reference to the Province, and did not at all intend to propose that a Lieutenant Governor should be appointed for a part only of the Province of Auckland. My reason for making the suggestion at all was, that in the Governor's absence, some person ought to be appointed to reside in the Province of Auckland to whom the Natives could be referred, and who should have power delegated to him by the Governor to sign and act for him as if he were present.

3. The request in reference to carrying executions into effect arose from circumstances which occurred in 1855, and were then reported. A Native woman was murdered near Auckland by an European, and the murderer was sentenced to death. I was absent at Wellington when the sentence was passed, and the Judge retained the prisoner until my return because he considered it necessary that the Governor should receive his minutes while sitting in Council, and that no execution could take place until the sentence had been so confirmed. This caused a delay of many weeks, during which, the tribe of the murdered woman congregated about Auckland, threatening violence if the man were not executed or given up to them.

4. Your despatch (No. 73) puts an end to difficulties of this nature by enabling the Governor to confirm a sentence of death without consulting his Council, though it appears to me that inconvenience of a similar description might still arise if an execution were delayed for the approval of the Governor; he being at a distant settlement, even though he were to authorise its infliction by return of post.

5. I am inclined to doubt if the term "Chief Magistrate" would answer this purpose, for which a Deputy may be required during the absence of the Governor, and believe that a Lieutenant-Governor would give more satisfaction to the Province which was for a long time placed under such an Officer. It is however impossible that I can receive further instructions from you before the next meeting of the Assembly, if therefore the question should be again mooted I shall venture to propose that the Assembly authorise me to appoint a "Resident" to preside in the Province of Auckland, during the absence of the Governor, with such powers as the Governor may be permitted to delegate to him. The office of Resident exists in the Ionian Islands, and I trust you will approve of my venturing thus to alter the designation, because the one you suggest would not secure the same respect from the Natives, and might conflict with the office of Superintendent.

I have, &c.,

(Signed) THOS. GORE BROWNE.

The Right Honourable Henry Labouchere, M. P.
&c., &c., &c.

